

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:

Oakwood Homes Corporation, et al.,

Debtors.

Chapter 11

Case No. 02-13396 (PJW)

OHC Liquidation Trust,

Plaintiff,

v.

Adv. Proc. No. 04-57060 (PJW)

Civil Action No. 07-799 (JJF)

Credit Suisse (f/k/a Credit Suisse First Boston, a Swiss banking corporation), Credit Suisse Securities (USA), LLC (f/k/a Credit Suisse First Boston LLC), Credit Suisse Holdings (USA), Inc. (f/k/a Credit Suisse First Boston, Inc.), and Credit Suisse (USA), Inc. (f/k/a Credit Suisse First Boston (U.S.A.), Inc.), the subsidiaries and affiliates of each, and Does 1 through 100,

Defendants.

**DECLARATION OF ELIZABETH M. DOWD
IN SUPPORT OF DEFENDANTS' MOTION TO EXCLUDE CERTAIN TESTIMONY
AND DOCUMENTS RELATING TO CREDIT RISK MANAGEMENT REVIEWS**

I, Elizabeth M. Dowd, declare as follows:

1. I am an attorney associated with the law firm of Linklaters LLP, counsel to Defendants in this action. I submit this Declaration in connection with Defendants' Motion Pursuant to Fed. R. Evid. 402 and 403 to Exclude Certain Testimony and Documents Relating to Credit Risk Management Reviews.

2. Attached hereto as Exhibit A is a true and correct copy of excerpts from the Deposition of Jared Felt, dated June 15, 2006.

3. Attached hereto as Exhibit B is a true and correct copy of excerpts from the Deposition of James Xanthos, dated August 24, 2006.

4. Attached hereto as Exhibit C is a true and correct copy of excerpts from the Deposition of Thomas Irwin, dated November 8, 2006.

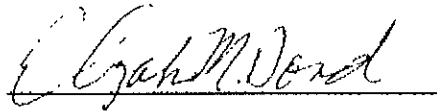
5. Attached hereto as Exhibit D is a true and correct copy of excerpts from the Deposition of Fiachra O'Driscoll, dated June 29, 2006.

6. Attached hereto as Exhibit E is a true and correct copy of the March 13, 2001, Memorandum to File, CSFB-00512903.

7. Attached hereto as Exhibit F is a true and correct copy of the Supplemental Report of Alan C. Shapiro, Ph.D., dated August 28, 2007.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 16, 2008
New York, New York

A handwritten signature in cursive script, reading "Elizabeth M. Dowd", written over a horizontal line.

Elizabeth M. Dowd, Esq.

EXHIBIT A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

IN RE:

OAKWOOD HOMES CORPORATION, ET AL.,)
DEBTORS,)

OHC LIQUIDATION TRUST,)

PLAINTIFF,)

vs.)

CREDIT SUISSE FIRST BOSTON, A)
SWISS BANKING CORPORATION, CREDIT)
SUISSE FIRST BOSTON LLC, A)
DELAWARE LIMITED LIABILITY)
CORPORATION, CREDIT SUISSE FIRST)
BOSTON, INC., CREDIT SUISSE FIRST)
BOSTON (USA), INC., A DELAWARE)
CORPORATION AND A WHOLLY OWNED)
SUBSIDIARY OF CREDIT SUISSE FIRST)
BOSTON, INC., THE SUBSIDIARIES AND)
AFFILIATES OF EACH, AND DOES 1)
THROUGH 100,)

DEFENDANTS.)

No. 02-13396(PJW)

VOLUME 1

PAGES 1 THROUGH 292

VIDEOTAPED
DEPOSITION OF:

JARED FELT
THURSDAY, JUNE 15, 2006
LOS ANGELES, CALIFORNIA

REPORTED BY:

FELIPE F. CARRILLO, CSR 9555

<p>1 warehouse lender?</p> <p>2 A. That was the post -- that was the entity that</p> <p>3 provided the loan purchase facility, as well as the</p> <p>4 provider of the loan purchase facility after bankruptcy.</p> <p>5 Q. Okay. All right. And can you tell me what New</p> <p>6 York branch is? How does it fit in the family of -- is</p> <p>7 it a branch of some other corporation?</p> <p>8 A. It is the entity that has the legal right to lend</p> <p>9 money.</p> <p>10 Q. And is it a subsidiary?</p> <p>11 A. It is a bank -- it's a bank.</p> <p>12 Q. It's a bank. Is it related in some way through</p> <p>13 common ownership or parent-subsidiary relationship to</p> <p>14 CSFB that signed the August 19th contract?</p> <p>15 A. It is a -- I believe it is a federal reserve</p> <p>16 regulated entity that has ultimate control under the</p> <p>17 Credit Suisse group.</p> <p>18 Q. It is the parent of all other entities in the</p> <p>19 group?</p> <p>20 A. No.</p> <p>21 Q. When you say it has ultimate control, you lost me</p> <p>22 there.</p> <p>23 A. It is ultimately owned by the Credit Suisse</p> <p>24 group.</p> <p>25 Q. Oh, okay.</p> <p style="text-align: right;">202</p>	<p>1 A. We had -- I had worked on a team that helped</p> <p>2 Champion raise capital in early 2002.</p> <p>3 Q. All right. That was not a restructuring then?</p> <p>4 A. It was not.</p> <p>5 Q. And other than your attempt to help Champion</p> <p>6 raise capital, did your -- did CSFB have any particular</p> <p>7 expertise in the manufactured housing industry?</p> <p>8 A. Credit Suisse provided or did securitizations for</p> <p>9 a number of other manufactured housing companies, as</p> <p>10 well as for CONSECO, a financing arm for the industry or</p> <p>11 finance company for the industry.</p> <p>12 Q. Did CSFB have any relationship with CONSECO other</p> <p>13 than securitization?</p> <p>14 A. Yes.</p> <p>15 Q. What was that?</p> <p>16 A. I don't know.</p> <p>17 Q. Do you know who within CSFB would likely know the</p> <p>18 answer to that question?</p> <p>19 A. There are a number of people who would.</p> <p>20 Q. Can you name a couple of them for me anyway?</p> <p>21 A. I cannot.</p> <p>22 Q. Okay. Do you know what group or branch to look</p> <p>23 in or can you give me any better guidance to who I</p> <p>24 would -- who might I learn who these people were?</p> <p>25 A. It is a finance company. Perhaps the Financial</p> <p style="text-align: right;">204</p>
<p>1 A. A Swiss company.</p> <p>2 Q. And is that also true of either the CSFB entity</p> <p>3 this signed the August 19th contract or its parent?</p> <p>4 A. Yes.</p> <p>5 Q. So New York branch and the CSFB entities that</p> <p>6 signed the contract are sister companies?</p> <p>7 A. I'm not sure if they're sister or not. They are</p> <p>8 under the same ultimate ownership.</p> <p>9 Q. Okay.</p> <p>10 A. But separate legal entities with separate</p> <p>11 management.</p> <p>12 Q. Okay. Let's now return to Exhibit 10, if we</p> <p>13 could.</p> <p>14 Forgive me, but I've covered a number of these,</p> <p>15 things that I intend to ask you about this, and I will</p> <p>16 not trouble you with them again.</p> <p>17 As of the time of the preparation of this</p> <p>18 document, did you believe that CSFB had any particular</p> <p>19 expertise in the manufactured housing industry?</p> <p>20 A. We had worked -- I had worked with another firm,</p> <p>21 another manufactured housing company.</p> <p>22 Q. And which was that?</p> <p>23 A. Champion Enterprises.</p> <p>24 Q. Had you also entered into a contract with</p> <p>25 Champion?</p> <p style="text-align: right;">203</p>	<p>1 Institutions Group.</p> <p>2 Q. All right. Was CSFB a lender to CONSECO?</p> <p>3 A. I don't know.</p> <p>4 Q. Have you told me everything you know about CSFB's</p> <p>5 relationship with CONSECO?</p> <p>6 A. We, Fitchra and I, went to CONSECO and offered to</p> <p>7 help them with restructuring services for their business</p> <p>8 as well.</p> <p>9 Q. When did that happen?</p> <p>10 MS. WARREN: I would like to caution the</p> <p>11 witness to just talk about public information with</p> <p>12 respect to CONSECO.</p> <p>13 THE WITNESS: Fair.</p> <p>14 BY MR. CASTANARES:</p> <p>15 Q. I don't think I'm going to ask you for any</p> <p>16 non-public information, and if I do, you let me know.</p> <p>17 A. That's non-public information.</p> <p>18 Q. When it happened is non-public information?</p> <p>19 A. The fact that it happened is non-public</p> <p>20 information.</p> <p>21 Q. Okay. I'm going to ask you for some non-public</p> <p>22 information, I guess.</p> <p>23 MS. WARREN: About other clients or</p> <p>24 potential clients of Credit Suisse? Because I'm not</p> <p>25 going to let him answer those questions.</p> <p style="text-align: right;">205</p>

<p>1 MS. WARREN: Objection to the form.</p> <p>2 THE WITNESS: That's speculation. The</p> <p>3 reason that it had -- the number of providers had</p> <p>4 increased substantially because of profits in the space</p> <p>5 in the early '90s. So if lenders, the potential loan</p> <p>6 purchasers, saw it as profitable, they would have</p> <p>7 reentered the market.</p> <p>8 BY MR. CASTANARES:</p> <p>9 Q. As of the time you prepared Exhibit 10, were you</p> <p>10 aware that CSFB's credit department had recommended in</p> <p>11 January of 2000 against providing some sort of line or</p> <p>12 facility to Oakwood?</p> <p>13 A. No.</p> <p>14 Q. Did you become aware of that at some later date?</p> <p>15 A. No.</p> <p>16 Q. So is this the first you've heard of it right</p> <p>17 now?</p> <p>18 A. I saw a document yesterday long after the case</p> <p>19 ended.</p> <p>20 Q. And that's the first time you heard that</p> <p>21 Mr. Zanthos had declined a proposed credit for Oakwood?</p> <p>22 A. Yes.</p> <p>23 MS. WARREN: Objection to the form.</p> <p>24 BY MR. CASTANARES:</p> <p>25 Q. Just so we understand, yesterday was the first</p> <p style="text-align: right;">214</p>	<p>1 January '00 credit report on Oakwood if you had wanted</p> <p>2 to get it?</p> <p>3 A. I don't know.</p> <p>4 MS. WARREN: Objection to the form.</p> <p>5 BY MR. CASTANARES:</p> <p>6 Q. You don't know?</p> <p>7 A. I don't know.</p> <p>8 Q. Would any other kind of -- was there any other</p> <p>9 kind of internal inhibition on your being able to get</p> <p>10 information from credit or Credit Risk Management if you</p> <p>11 had wanted to do so in the course of the performance of</p> <p>12 a financial services advisory contract?</p> <p>13 A. New York branch is a separate entity. I have</p> <p>14 never asked New York branch for information in</p> <p>15 performing an assignment.</p> <p>16 Q. Okay. So do I understand from that that the --</p> <p>17 did Mr. Zanthos work for New York branch?</p> <p>18 A. I believe he does, but I don't know.</p> <p>19 Q. Or at least he did then; right?</p> <p>20 A. (Nods his head up and down).</p> <p>21 Q. And as of about the time of the execution of the</p> <p>22 August contract, was CSFB itself or New York branch, to</p> <p>23 your knowledge, reducing its activities either as a</p> <p>24 lender, if it had any, or as a provider of warehouse</p> <p>25 lines in the manufactured home industry?</p> <p style="text-align: right;">216</p>
<p>1 time you learned that?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And that was in the course of reviewing</p> <p>4 documents in preparation for this deposition?</p> <p>5 A. It was because I was told that you had</p> <p>6 requested --</p> <p>7 MS. WARREN: Hold. Hold. Don't go into</p> <p>8 details. The short answer is yes.</p> <p>9 THE WITNESS: Yeah.</p> <p>10 BY MR. CASTANARES:</p> <p>11 Q. The short answer is yes. I don't want to be</p> <p>12 asking what your counsel told you. I just want to -- my</p> <p>13 question was, what was the occasion of your reviewing</p> <p>14 this document, was preparing for this deposition?</p> <p>15 A. (Nods his head up and down).</p> <p>16 Q. Okay. Now, did the Chinese wall that existed at</p> <p>17 Oakwood, would that have prevented you in August of 2002</p> <p>18 from getting Mr. Zanthos's report of January '00 if you</p> <p>19 had wanted?</p> <p>20 MS. WARREN: Objection to the form. You</p> <p>21 used the term -- you said "Oakwood." I'm not sure</p> <p>22 that's what you meant.</p> <p>23 MR. CASTANARES: Let's start again.</p> <p>24 Q. Did the Chinese wall that existed at CSFB, would</p> <p>25 that have prevented you from obtaining Mr. Zanthos's</p> <p style="text-align: right;">215</p>	<p>1 MS. WARREN: Would you read that back,</p> <p>2 please.</p> <p>3 (Record read)</p> <p>4 MS. WARREN: Objection to the form, but go</p> <p>5 ahead.</p> <p>6 THE WITNESS: There was less activity in the</p> <p>7 space in the securitization market and in the industry,</p> <p>8 therefore, the activity of Credit Suisse would have been</p> <p>9 diminished.</p> <p>10 BY MR. CASTANARES:</p> <p>11 Q. Okay. Do you know? Do you know whether Credit</p> <p>12 Suisse had decided to diminish its activities in this</p> <p>13 field or was it purely a result of diminished amount of</p> <p>14 business out there?</p> <p>15 MS. WARREN: Are you asking about CSFB?</p> <p>16 MR. CASTANARES: I'm using the same word as</p> <p>17 the witness used, Credit Suisse.</p> <p>18 THE WITNESS: CSFBC would have diminished</p> <p>19 its activities in the securitization market because</p> <p>20 there were fewer securitizations. I don't know what New</p> <p>21 York branch was doing.</p> <p>22 BY MR. CASTANARES:</p> <p>23 Q. Okay. And to the extent that CSFBC was reducing</p> <p>24 its activities in the securitization markets, it was</p> <p>25 doing that purely because there was less business out</p> <p style="text-align: right;">217</p>

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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In Re:) Chapter 11
OAKWOOD HOMES CORPORATION,) Case No. 02-13396
et al.,) (PJW)
Debtors.) Jointly Administered

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OHC LIQUIDATION TRUST,)
Plaintiff,)
vs.) Adv. Proc. No.
CREDIT SUISSE FIRST BOSTON, a) 04-57060 (PJW)
Swiss banking corporation,)
CREDIT SUISSE FIRST BOSTON)
LLC, a Delaware limited)
liability corporation, CREDIT)
SUISSE FIRST BOSTON, INC.,)
CREDIT SUISSE FIRST BOSTON)
(U.S.A.), INC., a Delaware)
corporation and a wholly)
owned subsidiary of CREDIT)
SUISSE FIRST BOSTON, INC., the)
subsidiaries and affiliates)
of each, and DOES 1 through)
100,)
Defendants.)

August 24, 2006

8:43 a.m.

Deposition of JAMES XANTHOS, held at the
law offices of Linklaters, 1345 Avenue of the
Americas, New York, New York, pursuant to
agreement, before Donald R. DePew, an RPR, CRR and
Notary Public within and for the State of
New York.

<p>1 James Xanthos</p> <p>08:45:43 2 A. We provide warehouse lines to mortgage</p> <p>08:45:45 3 banks. We also buy mortgages from sellers of</p> <p>08:45:48 4 mortgages. And it's any mortgage that doesn't</p> <p>08:45:54 5 meet Fannie Mae or Freddie Mac's guidelines.</p> <p>08:45:58 6 Q. All right. Do your current duties in</p> <p>08:46:00 7 any way involve the manufactured housing business?</p> <p>08:46:02 8 A. No.</p> <p>08:46:04 9 Q. When did you first go to work for</p> <p>08:46:06 10 Credit Suisse?</p> <p>08:46:08 11 A. In October of 1999.</p> <p>08:46:10 12 Q. And did you go to work there in a</p> <p>08:46:12 13 credit management function?</p> <p>08:46:14 14 A. Yes.</p> <p>08:46:16 15 Q. Had you worked elsewhere before then?</p> <p>08:46:18 16 A. In a credit risk management --</p> <p>08:46:20 17 Q. In any function.</p> <p>08:46:22 18 A. Yes, before Credit Suisse First</p> <p>08:46:24 19 Boston --</p> <p>08:46:26 20 Q. Why don't you give me, if you would be</p> <p>08:46:28 21 so -- if you would be so kind give me a short</p> <p>08:46:30 22 rundown on your employment history since you</p> <p>08:46:32 23 graduated from your education.</p> <p>08:46:34 24 A. Sure. I graduated college,</p> <p>08:46:36 25 Fordham University, in 1989. And I started -- I</p>	<p>1 James Xanthos</p> <p>08:47:40 2 vice president and then I was promoted to a</p> <p>08:47:42 3 vice president level.</p> <p>08:47:44 4 Q. And were you in a credit management</p> <p>08:47:46 5 function throughout that employment?</p> <p>08:47:48 6 A. Yes.</p> <p>08:47:50 7 Q. And were you employed here in New York</p> <p>08:47:52 8 at all times?</p> <p>08:47:54 9 A. Yes.</p> <p>08:47:56 10 Q. Was Mr. Irwin your supervisor</p> <p>08:47:58 11 throughout your employment?</p> <p>08:48:00 12 A. Not initially, but for the bulk of my</p> <p>08:48:02 13 employment at CSFB he was.</p> <p>08:48:04 14 Q. Was he your supervisor at all times</p> <p>08:48:06 15 during which you dealt with Oakwood?</p> <p>08:48:08 16 A. No. The initial supervisor was</p> <p>08:48:10 17 Michael Criscito.</p> <p>08:48:12 18 Q. Could you spell that for the reporter,</p> <p>08:48:14 19 please.</p> <p>08:48:16 20 A. Criscito?</p> <p>08:48:18 21 Q. Or just say it slowly.</p> <p>08:48:20 22 A. Criscito.</p> <p>08:48:22 23 And then Tom Irwin replaced him I guess</p> <p>08:48:24 24 the tail end of 1999, early 2000.</p> <p>08:48:26 25 Q. All right. How many other people</p>
<p>1 James Xanthos</p> <p>08:46:38 2 was a bank examiner for three and a half years at</p> <p>08:46:40 3 the Office of Thrift Supervision. And from there</p> <p>08:46:42 4 I went back to graduate school, received my MBA.</p> <p>08:46:44 5 And then I started at PaineWebber in 1996 and I</p> <p>08:46:46 6 was there for -- I was there up until October of</p> <p>08:46:48 7 1999. Then I left PaineWebber for CSFB. And I</p> <p>08:46:50 8 was at CSFB from October of '99 until July of</p> <p>08:46:52 9 2004.</p> <p>08:46:54 10 Q. Okay. What did you do at PaineWebber?</p> <p>08:46:56 11 A. Also in credit risk management.</p> <p>08:46:58 12 Q. Did your duties there involve the</p> <p>08:47:00 13 manufactured housing industry?</p> <p>08:47:02 14 A. No.</p> <p>08:47:04 15 Q. So I take it you had no contact with</p> <p>08:47:06 16 Oakwood Homes in your time at PaineWebber?</p> <p>08:47:08 17 A. No.</p> <p>08:47:10 18 Q. What's your current office address,</p> <p>08:47:12 19 please?</p> <p>08:47:14 20 A. 390 Greenwich Street, New York,</p> <p>08:47:16 21 New York, 10013.</p> <p>08:47:18 22 Q. Would you give me a brief rundown of</p> <p>08:47:20 23 the positions and titles that you held during your</p> <p>08:47:22 24 time at Credit Suisse.</p> <p>08:47:24 25 A. I started off as an assistant</p>	<p>1 James Xanthos</p> <p>08:48:40 2 worked in credit risk management during the time</p> <p>08:48:42 3 that you dealt with Oakwood in your employment at</p> <p>08:48:44 4 CSFB?</p> <p>08:48:46 5 A. I don't know the exact number.</p> <p>08:48:48 6 Q. Can you give me any kind of range, is</p> <p>08:48:50 7 it five, or ten, or 100, or --</p> <p>08:48:52 8 A. The amount of people that worked in</p> <p>08:48:54 9 credit?</p> <p>08:48:56 10 Q. Is credit something different from</p> <p>08:48:58 11 credit risk management?</p> <p>08:49:00 12 A. No, credit risk management at one -- I</p> <p>08:49:02 13 take that to be how many people were in the</p> <p>08:49:04 14 immediate group within New York.</p> <p>08:49:06 15 Q. Okay. That's --</p> <p>08:49:08 16 A. In the credit risk management group</p> <p>08:49:10 17 within New York.</p> <p>08:49:12 18 Q. All right.</p> <p>08:49:14 19 A. Is that just the amount of people?</p> <p>08:49:16 20 Q. Professionals.</p> <p>08:49:18 21 A. My best guess would be 40 people.</p> <p>08:49:20 22 Q. And did you --</p> <p>08:49:22 23 Was there some division of labor where</p> <p>08:49:24 24 certain of you concentrated on certain industries,</p> <p>08:49:26 25 or certain clients, or some sort of division like</p>

<p>1 James Xanthos</p> <p>08:49:30 2 that?</p> <p>08:49:30 3 A. Yes, it was divided up by industries.</p> <p>08:49:34 4 Q. And what was your division?</p> <p>08:49:38 5 A. We were in charge of reviewing credits</p> <p>08:49:41 6 for the asset-backed group.</p> <p>08:49:51 7 Q. And by that do you mean that you</p> <p>08:49:52 8 reviewed any kind of credit risk related to an</p> <p>08:49:55 9 entity which did asset-backed transactions?</p> <p>08:49:59 10 A. Yes.</p> <p>08:49:59 11 Q. So that would be reviews of -- even</p> <p>08:50:03 12 just like unsecured or secured loans, for example?</p> <p>08:50:06 13 A. Almost everything that we did was</p> <p>08:50:07 14 secured, on a secured basis.</p> <p>08:50:09 15 Q. But it would involve any kind of credit</p> <p>08:50:11 16 risk or any kind of transaction that would present</p> <p>08:50:14 17 a credit risk issue to CSFB?</p> <p>08:50:17 18 A. Yes.</p> <p>08:50:19 19 Q. And when is the first time you can</p> <p>08:50:20 20 remember dealing with anything related to Oakwood?</p> <p>08:50:24 21 A. November of 1999.</p> <p>08:50:27 22 Q. Okay. And was that a \$75 million</p> <p>08:50:30 23 reverse repo proposal?</p> <p>08:50:33 24 A. Yes.</p> <p>08:50:34 25 Q. How did you happen to come into that</p> <p style="text-align: right;">10</p>	<p>1 James Xanthos</p> <p>08:51:57 2 gone onto the Internet and basically pulled down</p> <p>08:52:02 3 the most recent financial statements, 10-Qs,</p> <p>08:52:06 4 10-Ks, whatever news articles I could find on the</p> <p>08:52:10 5 company that were in the public marketplace. I</p> <p>08:52:16 6 would have also gone onto Bloomberg and looked to</p> <p>08:52:19 7 see if there were any types of securitizations</p> <p>08:52:21 8 that were completed. Those were the normal</p> <p>08:52:24 9 initial steps of the credit risk management</p> <p>08:52:27 10 function.</p> <p>08:52:28 11 Q. All right. And did you seek to</p> <p>08:52:29 12 gather -- strike that.</p> <p>08:52:32 13 If Credit Suisse people were dealing</p> <p>08:52:35 14 with that company on other matters, such as</p> <p>08:52:39 15 securitizations, for example, would you seek to</p> <p>08:52:41 16 gather further information from those people?</p> <p>08:52:43 17 A. No.</p> <p>08:52:45 18 Q. So in the ordinary course, for example,</p> <p>08:52:47 19 taking Oakwood now as an example, you wouldn't</p> <p>08:52:49 20 have gone to, say, Mr. O'Driscoll for further</p> <p>08:52:53 21 information?</p> <p>08:52:54 22 MR. OSNATO: Let me object there.</p> <p>08:52:55 23 Are we speaking hypothetically, because</p> <p>08:52:57 24 you used the word "example," or are we</p> <p>08:53:00 25 talking specifically about his recollection</p> <p style="text-align: right;">12</p>
<p>1 James Xanthos</p> <p>08:50:37 2 transaction?</p> <p>08:50:41 3 A. I was asked to -- I was asked by my</p> <p>08:50:43 4 supervisor to -- that there was a request from the</p> <p>08:50:49 5 banking group to look at -- basically was to look</p> <p>08:50:54 6 at the financial statements of Oakwood Homes.</p> <p>08:50:57 7 Q. And was your supervisor at that time</p> <p>08:50:59 8 Mr. Crisette?</p> <p>08:51:02 9 A. Yes.</p> <p>08:51:02 10 Q. Who was his supervisor at that time?</p> <p>08:51:10 11 A. Dan Miller.</p> <p>08:51:11 12 Q. Dan Miller?</p> <p>08:51:12 13 A. Yes.</p> <p>08:51:13 14 Q. All right. Was he your boss's</p> <p>08:51:17 15 supervisor throughout your employment at CSFB?</p> <p>08:51:20 16 A. Yes.</p> <p>08:51:28 17 Q. I'd like to ask you some questions</p> <p>08:51:30 18 about the process that you engaged in as a credit</p> <p>08:51:33 19 risk manager for your group.</p> <p>08:51:40 20 After receiving an -- and I'm going to</p> <p>08:51:43 21 speak in general here -- after receiving an</p> <p>08:51:45 22 assignment from your supervisor what steps did you</p> <p>08:51:49 23 ordinarily take in the ordinary course to perform</p> <p>08:51:51 24 your function?</p> <p>08:51:54 25 A. If it's a public company I would have</p> <p style="text-align: right;">11</p>	<p>1 James Xanthos</p> <p>08:53:01 2 of work done for Oakwood?</p> <p>08:53:03 3 MR. CASTANARES: No, I thought my</p> <p>08:53:04 4 question was clear, but if it wasn't I'll</p> <p>08:53:06 5 rephrase it.</p> <p>08:53:07 6 Q. I'm trying to find out if you followed</p> <p>08:53:09 7 your ordinary course, path with respect to</p> <p>08:53:12 8 Oakwood, would you have gone to Mr. O'Driscoll for</p> <p>08:53:16 9 further information in your credit risk management</p> <p>08:53:22 10 function?</p> <p>08:53:23 11 A. No.</p> <p>08:53:27 12 Q. Did you seek any information in the</p> <p>08:53:30 13 ordinary course beyond what was available</p> <p>08:53:31 14 publicly?</p> <p>08:53:36 15 A. No.</p> <p>08:53:44 16 Q. In the ordinary course did your group</p> <p>08:53:46 17 do any modeling, or run any cash flows, or</p> <p>08:53:49 18 projections, or that sort of thing?</p> <p>08:53:54 19 A. On the corporate entity?</p> <p>08:53:56 20 Q. Yes.</p> <p>08:53:58 21 A. That occurred as the review progressed.</p> <p>08:54:03 22 Q. Okay. And when you asked me to</p> <p>08:54:07 23 distinguish the corporate entity from something</p> <p>08:54:09 24 else what were you asking me to distinguish it</p> <p>08:54:12 25 from?</p> <p style="text-align: right;">13</p>

<p>1 08:54:13 2 08:54:16 3 08:54:21 4 08:54:26 5 08:54:29 6 08:54:32 7 08:54:35 8 08:54:38 9 08:54:40 10 08:54:41 11 08:54:44 12 08:54:48 13 08:54:55 14 08:55:00 15 08:55:02 16 08:55:06 17 08:55:07 18 08:55:10 19 08:55:14 20 08:55:17 21 08:55:25 22 08:55:30 23 08:55:32 24 08:55:35 25</p> <p style="text-align: center;">James Xanthos</p> <p>A. Well, there's two ways to look at -- there's two ways that -- you know, at CSFB that we looked at the entire credit picture. There was a corporate analysis, and a facility type of analysis, a securitization type of analysis. Most of our facilities were securitized credit facilities, which were structured as securitizations.</p> <p>Q. What do you mean by that term, "securitized credit facilities"?</p> <p>A. Meaning it is -- it resembles public securitizations.</p> <p>Q. All right. And in those cases did you run some sort of cash flows, or projections, or modeling?</p> <p>A. Yes.</p> <p>Q. And describe those for me, please.</p> <p>A. Well, you would look -- you know, you would look at past securitizations and you would look at what types of enhancement levels were required to do a securitization. So a lot of this information is public. You would look to see what types of credit enhancement levels were required to achieve an A rating, a AA rating, a AAA rating.</p> <p style="text-align: right;">14</p>	<p>1 08:57:12 2 08:57:17 3 08:57:22 4 08:57:25 5 08:57:30 6 08:57:32 7 08:57:36 8 08:57:40 9 08:57:42 10 08:57:44 11 08:57:46 12 08:57:48 13 08:57:50 14 08:57:53 15 08:57:55 16 08:57:57 17 08:57:58 18 08:58:00 19 08:58:02 20 08:58:08 21 08:58:09 22 08:58:10 23 08:58:12 24 08:58:15 25</p> <p style="text-align: center;">James Xanthos</p> <p>the credit group, there is an approval matrix depending on various different things, the dollar amount of a facility or the risk rating of a facility. So depending on the amount that was being asked to be provided to a client and their rating there would be a -- you know, there would be a matrix of different approval levels.</p> <p>Q. All right. Let me see if I could ask the question -- a slightly different question.</p> <p>Let's suppose that in the ordinary course you found a business that clearly did not meet credit criteria, was it within your power to turn it down or was it merely within your power to recommend that it be turned down?</p> <p>A. It's in my power to recommend that it be turned down.</p> <p>Q. And would the person who would make the final decision then have been your immediate superior if it was going to be turned down?</p> <p>A. Yes.</p> <p>Q. All right. And if you were recommending that it be granted would it be correct for me to infer that there was a certain level and dollar amount and other risk factors</p> <p style="text-align: right;">16</p>
<p>1 08:55:45 2 08:55:48 3 08:55:50 4 08:55:53 5 08:55:57 6 08:56:01 7 08:56:04 8 08:56:06 9 08:56:11 10 08:56:15 11 08:56:16 12 08:56:18 13 08:56:21 14 08:56:26 15 08:56:30 16 08:56:35 17 08:56:42 18 08:56:46 19 08:56:49 20 08:56:52 21 08:56:59 22 08:57:02 23 08:57:04 24 08:57:07 25</p> <p style="text-align: center;">James Xanthos</p> <p>Q. All right. And after looking at the public information what was the next step that you would take in the ordinary course of evaluating a proposed credit?</p> <p>A. Most times we would go to do an on site visit with management, especially if it was a new client. Here, again, it was a new client for me. So, you know, it's pretty common to go out and visit with the management team and hear the story directly from them.</p> <p>Q. All right. And after doing that what was the next step in the ordinary course?</p> <p>A. The next step would be to basically complete your -- normally at that point in time you would have enough information to make a decision. And the decision would be -- would result in a credit write-up, to which you would present to your manager and superior.</p> <p>Q. All right. And did you have a certain level of authority that you could make a decision yes or nay or a particular credit?</p> <p>A. Well, as the analyst you were the person responsible for doing the analysis of the credit and of the facility. Within CSFB, within</p> <p style="text-align: right;">15</p>	<p>1 08:58:18 2 08:58:23 3 08:58:26 4 08:58:28 5 08:58:29 6 08:58:30 7 08:58:31 8 08:58:33 9 08:58:34 10 08:58:37 11 08:58:39 12 08:58:41 13 08:58:43 14 08:58:46 15 08:58:49 16 08:58:52 17 08:58:54 18 08:58:56 19 08:58:59 20 08:59:02 21 08:59:05 22 08:59:07 23 08:59:08 24 08:59:10 25</p> <p style="text-align: center;">James Xanthos</p> <p>that would be within your power, and if not then within your immediate superior's, and then if not within his?</p> <p>MR. OSNATO: Objection as to the form. You can answer the question if you understand it.</p> <p>A. Can you just repeat it one more time.</p> <p>Q. Yeah. Were there certain levels of approval that you had authority to approve on your own, and if it exceeded your own authority that your superior probably had that -- had a greater authority, and so forth up the line?</p> <p>A. Yes.</p> <p>Q. Speaking of the \$75 million reverse repo facility that was proposed in '99 for Oakwood, would that have been within your authority to grant if you had chosen to do so?</p> <p>A. I don't recall.</p> <p>Q. Now, I think you said that after you got to the point of decision then there was some sort of write-up or report that was prepared, am I --</p> <p>A. Yes.</p> <p>Q. All right. And tell me about that</p> <p style="text-align: right;">17</p>

<p>1 James Xanthos</p> <p>08:59:12 2 process, please.</p> <p>08:59:13 3 A. It really is a summation of the</p> <p>08:59:15 4 analysis that was completed, from the review of</p> <p>08:59:19 5 public statements, from management meetings,</p> <p>08:59:24 6 things such as that.</p> <p>08:59:25 7 Q. All right. And was the person in your</p> <p>08:59:30 8 position, that is to say an analyst, the one who</p> <p>08:59:33 9 had the primary responsibility for preparing that</p> <p>08:59:36 10 kind of report?</p> <p>08:59:37 11 A. Yes.</p> <p>08:59:37 12 Q. Were there criteria that governed what</p> <p>08:59:40 13 was supposed to go into such reports?</p> <p>08:59:44 14 A. Yes.</p> <p>08:59:45 15 Q. Were those in some sort of manual?</p> <p>08:59:47 16 A. I believe so.</p> <p>08:59:48 17 Q. What was the title of that manual,</p> <p>08:59:50 18 please?</p> <p>08:59:50 19 A. I don't recall.</p> <p>08:59:51 20 Q. Was that a manual that was available to</p> <p>08:59:53 21 you in the CRM department?</p> <p>08:59:57 22 A. It's a manual that is available, yes.</p> <p>09:00:01 23 Q. All right. If you wanted to ask</p> <p>09:00:03 24 somebody for that manual what would you call it?</p> <p>09:00:07 25 A. It would be a credit policy manual.</p> <p style="text-align: right;">18</p>	<p>1 James Xanthos</p> <p>09:01:18 2 was my summation of what -- where the credit was</p> <p>09:01:22 3 at that particular point in time.</p> <p>09:01:26 4 Q. All right. Was there anything that</p> <p>09:01:28 5 guided you to put negative information in credit</p> <p>09:01:32 6 reports, whether you believed it or not?</p> <p>09:01:34 7 MR. OSNATO: Objection as to the form.</p> <p>09:01:35 8 You can answer.</p> <p>09:01:37 9 A. Please repeat it one more time.</p> <p>09:01:40 10 Q. Yeah. Either by any directions you had</p> <p>09:01:42 11 from your superiors or anything that was in the</p> <p>09:01:44 12 manual or from any other source, did you have any</p> <p>09:01:47 13 belief that it was your job to put negative</p> <p>09:01:50 14 information into credit reports, whether you</p> <p>09:01:53 15 believed that information to be true or not?</p> <p>09:01:55 16 A. Anything that I would have written I</p> <p>09:01:57 17 would have written it because I believed it to be</p> <p>09:02:01 18 true.</p> <p>09:02:02 19 Q. All right. Now, in the ordinary course</p> <p>09:02:05 20 then what would next happen after you prepared the</p> <p>09:02:07 21 credit report?</p> <p>09:02:09 22 A. Well, the credit report would be</p> <p>09:02:12 23 reviewed by my superiors and then we would meet</p> <p>09:02:14 24 and discuss the findings and come to a conclusion</p> <p>09:02:16 25 as to what we were going to decide.</p> <p style="text-align: right;">20</p>
<p>1 James Xanthos</p> <p>09:00:09 2 Q. All right. Did you have any part in</p> <p>09:00:12 3 the authorship of any portion of that manual?</p> <p>09:00:15 4 A. I don't believe so.</p> <p>09:00:22 5 Q. In preparing such written reports,</p> <p>09:00:25 6 Mr. Xanthos, were you supposed to put in a bunch</p> <p>09:00:29 7 of negative information, whether you believed it</p> <p>09:00:31 8 or not, or were you supposed to put into the</p> <p>09:00:35 9 report what you thought was actually true?</p> <p>09:00:37 10 MR. OSNATO: Objection as to the form</p> <p>09:00:38 11 of the question.</p> <p>09:00:39 12 You can answer it.</p> <p>09:00:40 13 A. Can you please repeat the question.</p> <p>09:00:42 14 Q. Yes. In preparing such reports did you</p> <p>09:00:46 15 understand your job to be to put into those</p> <p>09:00:49 16 reports negative information about the company,</p> <p>09:00:52 17 whether or not you believed it to be true, or on</p> <p>09:00:55 18 the other hand to put into the reports what you</p> <p>09:00:58 19 actually believed to be true?</p> <p>09:01:00 20 A. The report was a summation of what I --</p> <p>09:01:04 21 my evaluation of a company at that particular</p> <p>09:01:08 22 point in time.</p> <p>09:01:10 23 Q. And did you endeavor to put into such</p> <p>09:01:13 24 reports what you actually believed to be true?</p> <p>09:01:16 25 A. Anything that was in the report, again,</p> <p style="text-align: right;">19</p>	<p>1 James Xanthos</p> <p>09:02:22 2 Q. And at that point was there some sort</p> <p>09:02:24 3 of written record made of the conclusion or of the</p> <p>09:02:27 4 deliberations of your meeting?</p> <p>09:02:29 5 A. I don't recall.</p> <p>09:02:31 6 Q. And in the ordinary course then to whom</p> <p>09:02:33 7 would that decision be communicated, to the</p> <p>09:02:37 8 borrower directly or to somebody else at CSFB?</p> <p>09:02:45 9 A. It normally would not be the borrower</p> <p>09:02:47 10 directly. It would be to the person that has</p> <p>09:02:50 11 proposed the facility.</p> <p>09:02:52 12 Q. And that would ordinarily be somebody</p> <p>09:02:53 13 else within CSFB?</p> <p>09:02:55 14 A. Yes.</p> <p>09:02:57 15 Q. All right. And in the ordinary course</p> <p>09:02:58 16 was the communication of the decision made orally</p> <p>09:03:01 17 or in writing?</p> <p>09:03:02 18 A. I don't recall.</p> <p>09:03:03 19 Q. Were there occasions in your time at</p> <p>09:03:06 20 CSFB when a decision was communicated in writing</p> <p>09:03:10 21 to the other person?</p> <p>09:03:13 22 A. I don't recall.</p> <p>09:03:16 23 Q. Was there any kind of Chinese wall</p> <p>09:03:19 24 situation that existed between information that</p> <p>09:03:21 25 you developed in the CRM function and the</p> <p style="text-align: right;">21</p>

<p>1 James Xanthos</p> <p>09:03:26 2 businesspeople at CSFB, such that you were</p> <p>09:03:30 3 prohibited from communicating information to them?</p> <p>09:03:37 4 A. There is a Chinese wall, as there is in</p> <p>09:03:39 5 most firms. Anything that -- the write-ups were</p> <p>09:03:44 6 just for the credit risk management group. So I</p> <p>09:03:48 7 don't believe anyone would have seen the write-ups</p> <p>09:03:50 8 outside of the group.</p> <p>09:03:53 9 Q. Okay. Were you prohibited from showing</p> <p>09:03:56 10 Oakwood's write-ups to Mr. O'Driscoll?</p> <p>09:03:58 11 A. I don't recall if I was prohibited, but</p> <p>09:04:04 12 I don't believe that he ever saw the write-ups.</p> <p>09:04:06 13 Q. Well, I really want to try to focus my</p> <p>09:04:08 14 question on whether you sense that there was any</p> <p>09:04:12 15 prohibition or inhibition upon your --</p> <p>09:04:15 16 If Mr. O'Driscoll had asked you for</p> <p>09:04:18 17 those reports was there something that prohibited</p> <p>09:04:20 18 you from furnishing them to you?</p> <p>09:04:21 19 A. No one ever asked me for -- my whole</p> <p>09:04:24 20 time at CSFB no one ever asked for the credit</p> <p>09:04:27 21 reports. And to the best of my knowledge, they</p> <p>09:04:29 22 were never provided to anyone outside of the</p> <p>09:04:32 23 credit risk management group.</p> <p>09:04:39 24 Q. When a decision was communicated in the</p> <p>09:04:42 25 ordinary course to someone within CSFB was it</p> <p style="text-align: right;">22</p>	<p>1 James Xanthos</p> <p>09:06:04 2 A. A decision was made, yes.</p> <p>09:06:05 3 Q. And that decision was communicated to</p> <p>09:06:07 4 someone, correct?</p> <p>09:06:09 5 A. I would imagine so.</p> <p>09:06:09 6 Q. But you don't recall whether you were</p> <p>09:06:11 7 involved in making it?</p> <p>09:06:13 8 A. I was involved with making a decision</p> <p>09:06:15 9 or having a viewpoint on a corporate credit. The</p> <p>09:06:19 10 process of who was told, and when, and how, I have</p> <p>09:06:22 11 no recollection of.</p> <p>09:06:26 12 Q. All right. Let me ask you to look at</p> <p>09:06:27 13 what's been previously marked as Exhibit 112.</p> <p>09:06:43 14 MR. CASTANARES: And I'll tell counsel</p> <p>09:06:44 15 for Citigroup I'm not sure I have enough</p> <p>09:06:47 16 copies of everything to show you --</p> <p>09:06:48 17 MS. VALENTINE: That's all right, we</p> <p>09:06:49 18 can share.</p> <p>09:06:51 19 MR. CASTANARES: But the ones that I do</p> <p>09:06:52 20 have you can keep.</p> <p>09:06:53 21 Q. Are you the author of this document,</p> <p>09:06:55 22 sir?</p> <p>09:06:55 23 MR. OSNATO: You can take a moment,</p> <p>09:06:57 24 James, to familiarize yourself with it.</p> <p>09:07:01 25 MR. CASTANARES: Yes.</p> <p style="text-align: right;">24</p>
<p>1 James Xanthos</p> <p>09:04:45 2 common that that person asked the reason for CRM's</p> <p>09:04:49 3 decision?</p> <p>09:04:56 4 A. It would be common. Just human nature</p> <p>09:04:59 5 that someone would ask why, yes or no.</p> <p>09:05:03 6 Q. And in the ordinary course then what</p> <p>09:05:05 7 did CRM do to respond to such inquiries?</p> <p>09:05:10 8 A. I don't know.</p> <p>09:05:13 9 Q. Okay. Were you the person who</p> <p>09:05:16 10 communicated the negative recommendation on the</p> <p>09:05:20 11 \$75 million reverse repo decision to somebody</p> <p>09:05:25 12 within CSFB?</p> <p>09:05:28 13 A. Well, any -- my recommendation would</p> <p>09:05:30 14 have gone, as we described before, through the</p> <p>09:05:33 15 proper channels within CRM. What happened as to</p> <p>09:05:39 16 who was notified or who was told at different</p> <p>09:05:44 17 points in time, I had no knowledge.</p> <p>09:05:45 18 Q. You don't remember communicating the</p> <p>09:05:46 19 negative decision on that facility to anyone?</p> <p>09:05:50 20 A. Like I said, it would -- my</p> <p>09:05:52 21 recommendation would have went to my direct</p> <p>09:05:54 22 supervisor and to people above my direct</p> <p>09:05:58 23 supervisor.</p> <p>09:06:01 24 Q. Okay. And then a decision was made,</p> <p>09:06:03 25 correct?</p> <p style="text-align: right;">23</p>	<p>1 James Xanthos</p> <p>09:07:02 2 (Witness looks at document.)</p> <p>09:07:46 3 A. Just from the review of these pages</p> <p>09:07:49 4 here I don't recall if I was the author of this</p> <p>09:07:56 5 document, just because there is no place on here</p> <p>09:08:00 6 that has a listing of who, in fact, put this</p> <p>09:08:04 7 together. So I can't tell you definitively</p> <p>09:08:09 8 whether I was the author or not.</p> <p>09:08:11 9 Q. Were you involved in the credit review</p> <p>09:08:13 10 of this proposed credit?</p> <p>09:08:15 11 A. Yes.</p> <p>09:08:17 12 Q. Was there another analyst involved in</p> <p>09:08:18 13 the credit review of this proposed credit?</p> <p>09:08:22 14 A. To the best of my knowledge, no.</p> <p>09:08:23 15 Q. So if this proposed credit followed the</p> <p>09:08:27 16 ordinary course would it be logical to infer that</p> <p>09:08:29 17 you were the likely author of this document?</p> <p>09:08:32 18 MR. OSNATO: Objection as to the form.</p> <p>09:08:33 19 He's already testified that he doesn't</p> <p>09:08:35 20 recall authoring this document.</p> <p>09:08:37 21 You can answer the question.</p> <p>09:08:39 22 A. Like I said, I don't have a direct</p> <p>09:08:41 23 recollection of writing this credit memo or this</p> <p>09:08:45 24 update.</p> <p>09:08:46 25 Q. Well, in the ordinary course would</p> <p style="text-align: right;">25</p>

<p>1 James Xanthos</p> <p>10:04:26 2 A. It's not unusual.</p> <p>10:04:28 3 Q. Okay. And does looking at the name of</p> <p>10:04:30 4 Douglas Faulk, F-a-u-l-k, refresh your memory as</p> <p>10:04:34 5 to whom you met with at Oakwood?</p> <p>10:04:36 6 A. No.</p> <p>10:04:36 7 MR. OSNATO: Just to clarify, Tony, I</p> <p>10:04:38 8 think you meant to refer to Richard Faulk.</p> <p>10:04:41 9 MR. CASTANARES: I'm sorry, you're</p> <p>10:04:42 10 absolutely correct.</p> <p>10:04:44 11 Q. Do you recall anything specific that</p> <p>10:04:45 12 either Mr. Muir, or Mr. Faulk, or whomever you met</p> <p>10:04:48 13 with at Oakwood said?</p> <p>10:04:51 14 A. No.</p> <p>10:05:03 15 Q. What is a committed versus an</p> <p>10:05:05 16 uncommitted reverse repo facility?</p> <p>10:05:08 17 A. "Committed" is -- committed meaning the</p> <p>10:05:12 18 facility -- if it's 12-month committed meaning</p> <p>10:05:15 19 that the facility is in place for the 12 months.</p> <p>10:05:19 20 If it's uncommitted meaning there is no obligation</p> <p>10:05:22 21 for the facility to be outstanding for the period</p> <p>10:05:24 22 of time that you've agreed. So provided all the</p> <p>10:05:29 23 terms and conditions of a committed facility are</p> <p>10:05:32 24 met, the facility is outstanding. If it is a</p> <p>10:05:35 25 12-month facility, for 12 months.</p> <p>62</p>	<p>1 James Xanthos</p> <p>10:07:04 2 the value of the security less a specific haircut.</p> <p>10:07:10 3 Q. And so if we have an asset which is a</p> <p>10:07:15 4 mortgage or a retail installment contract with a</p> <p>10:07:19 5 face value of 100 the haircut is a percentage</p> <p>10:07:23 6 taken off that?</p> <p>10:07:24 7 A. Yes.</p> <p>10:07:24 8 Q. And so a haircut of 19 percent would</p> <p>10:07:26 9 indicate that the lender would lend \$81 on that</p> <p>10:07:30 10 asset.</p> <p>10:07:30 11 A. Yes.</p> <p>10:07:32 12 Q. And then is it correct that in a</p> <p>10:07:34 13 reverse repo facility the borrower is essentially</p> <p>10:07:37 14 required to purchase the asset back from the</p> <p>10:07:39 15 lender?</p> <p>10:07:41 16 A. Yes, at a specific point in time.</p> <p>10:07:42 17 Q. For \$81 plus a rate of interest; is</p> <p>10:07:45 18 that right?</p> <p>10:07:46 19 A. Yes.</p> <p>10:07:54 20 Q. And what is meant by the term "risk</p> <p>10:07:57 21 free haircut"?</p> <p>10:07:59 22 A. Risk free haircut is -- the meaning</p> <p>10:08:02 23 there is a -- if you say -- the terminology we</p> <p>10:08:09 24 used in credit risk management was that if you --</p> <p>10:08:12 25 basically you're not taking -- the haircut is</p> <p>64</p>
<p>1 James Xanthos</p> <p>10:05:43 2 Q. All right. And did committed versus</p> <p>10:05:50 3 uncommitted reverse repo facilities have a</p> <p>10:05:53 4 different risk characteristic from the perspective</p> <p>10:05:57 5 of the lender?</p> <p>10:05:58 6 A. Yes.</p> <p>10:05:59 7 Q. Describe that, please.</p> <p>10:06:02 8 A. Committed you are in the facility for</p> <p>10:06:05 9 the amount of period of time that you've --</p> <p>10:06:06 10 through the maturity, provided all of the</p> <p>10:06:10 11 conditions are met versus uncommitted can be the</p> <p>10:06:13 12 facility is not obligated -- you're not obligated</p> <p>10:06:18 13 to be out for I'll say 12 months.</p> <p>10:06:26 14 Q. In an uncommitted facility is the</p> <p>10:06:28 15 lender basically free to turn down any proposed</p> <p>10:06:31 16 transaction within it at will?</p> <p>10:06:36 17 A. Yes.</p> <p>10:06:37 18 Q. So it's basically an option on the part</p> <p>10:06:39 19 of the lender to lend or not to lend, is that it?</p> <p>10:06:42 20 A. Yes.</p> <p>10:06:46 21 Q. And describe for me briefly, please,</p> <p>10:06:48 22 what a reverse repo facility is.</p> <p>10:06:52 23 A. It's where the counterparty is</p> <p>10:06:55 24 providing you with securities and you're providing</p> <p>10:06:58 25 the counterparty with cash, which is derived from</p> <p>63</p>	<p>1 James Xanthos</p> <p>10:08:15 2 protecting you from any type of risk. Meaning if</p> <p>10:08:23 3 a AAA -- if a AAA enhancement level was let's say</p> <p>10:08:29 4 20 percent and you have a haircut of 20 percent</p> <p>10:08:31 5 theoretically you were a AAA, so you were at --</p> <p>10:08:35 6 theoretically don't have any risk in the</p> <p>10:08:37 7 transaction.</p> <p>10:08:42 8 Q. And what do you mean by the term</p> <p>10:08:44 9 "enhancement" in this context?</p> <p>10:08:46 10 A. Everything -- when I say enhancement</p> <p>10:08:48 11 I'm referring to securitization enhancement,</p> <p>10:08:52 12 meaning if a most recent deal had a 20 percent</p> <p>10:08:59 13 enhancement to AAA, meaning a credit enhancement</p> <p>10:09:02 14 below the seniors notes, that's translating to a</p> <p>10:09:05 15 risk free haircut of 20 percent for a AAA advance.</p> <p>10:09:09 16 Q. What is an enhancement?</p> <p>10:09:12 17 A. It's subordination, it's</p> <p>10:09:14 18 overcollateralization, and it's excess spread.</p> <p>10:09:17 19 Q. It's one of those three things or a</p> <p>10:09:19 20 combination?</p> <p>10:09:21 21 A. Actually it could be a combination of</p> <p>10:09:23 22 all three.</p> <p>10:09:24 23 Q. And when you say excess spread what do</p> <p>10:09:26 24 you mean by that term, please?</p> <p>10:09:26 25 A. It's the difference between what the</p> <p>65</p>

1 James Xanthos
 10:14:18 2 that was the conclusion that I came up with.
 10:14:20 3 Q. Well, how did you conclude that it was
 10:14:22 4 weaker than other players in the industry?
 10:14:25 5 A. Just looking at the financial
 10:14:26 6 statements of other companies within the industry.
 10:14:31 7 And I made the judgment that I thought at that
 10:14:34 8 point in time that Oakwood was having issues.
 10:14:40 9 Q. Issues greater than other players in
 10:14:43 10 the industry, correct?
 10:14:44 11 A. I think issues -- I think, like I said
 10:14:46 12 before, most companies within this industry were
 10:14:48 13 facing the same issues. And I think me writing
 10:14:53 14 this was -- I was still learning the industry at
 10:14:57 15 that point in time. So, again, this was my
 10:15:01 16 estimation of what I -- where I thought Oakwood
 10:15:04 17 was at that point in time.
 10:15:05 18 Q. Okay. But what caused you to use the
 10:15:07 19 superlative saying that Oakwood was the weakest
 10:15:10 20 company in this industry?
 10:15:11 21 A. I don't recall.
 10:15:12 22 Q. Nonetheless, you did believe that at
 10:15:14 23 the time or you wouldn't have written it down,
 10:15:17 24 correct?
 10:15:17 25 A. I believe so.

70

1 James Xanthos
 10:15:26 2 Q. Now, in the next paragraph -- I'm
 10:15:31 3 sorry, it's the last paragraph in this -- under
 10:15:35 4 this conclusion header, "It should be noted."
 10:15:38 5 A. Okay.
 10:15:39 6 Q. All right. And it says that in June
 10:15:43 7 '99 Oakwood was internally rated BBB minus.
 10:15:48 8 And when you say "internally rated"
 10:15:50 9 that's within CSFB?
 10:15:51 10 A. Within CRM.
 10:15:53 11 Q. Within CRM.
 10:15:58 12 And the next paragraph refers to a
 10:16:00 13 B minus, is that a lower rating than BBB minus?
 10:16:04 14 A. Yes.
 10:16:04 15 Q. How many rungs down is it?
 10:16:09 16 A. I might have to sit here and -- I
 10:16:10 17 mean --
 10:16:10 18 Q. Don't write anything.
 10:16:12 19 MR. OSNATO: Please don't write
 10:16:13 20 anything.
 10:16:13 21 If you know the answer, James, you can
 10:16:14 22 answer. If you don't know the answer, that's
 10:16:17 23 fine, too.
 10:16:19 24 A. I don't know the answer.
 10:16:21 25 MR. CASTANARES: Let me suggest that we

71

1 James Xanthos
 10:16:22 2 substitute a different copy of Exhibit --
 10:16:24 3 MR. OSNATO: Why don't we just -- do
 10:16:25 4 you want to use a Post-it so he can --
 10:16:26 5 MR. CASTANARES: No, actually it
 10:16:26 6 doesn't really matter because Exhibit 54 has
 10:16:29 7 already been marked. This is a previously
 10:16:31 8 marked exhibit. It doesn't really matter
 10:16:34 9 that he's written on it.
 10:16:35 10 MR. OSNATO: I understand. No, I take
 10:16:36 11 your point. But if you're asking him to
 10:16:37 12 write on it further I don't know that that's
 10:16:38 13 a good idea.
 10:16:38 14 MR. CASTANARES: No, I'm not asking him
 10:16:40 15 to write on it further. I was only
 10:16:42 16 suggesting that since he did write on it, we
 10:16:44 17 substitute, but then I realized that's really
 10:16:48 18 not necessary.
 10:16:49 19 MR. OSNATO: I agree, there's no
 10:16:46 20 grievous harm done here.
 10:16:49 21 MR. CASTANARES: No even mild harm
 10:16:50 22 here.
 10:16:51 23 Q. Is there a BB minus rating that's like
 10:16:53 24 a BB as opposed to triple that's someplace between
 10:16:59 25 B minus and BB minus?

72

1 James Xanthos
 10:17:01 2 A. The next level below BBB minus is
 10:17:04 3 BB plus, then it goes down from there.
 10:17:08 4 Q. Okay. So this is six or seven rungs
 10:17:13 5 down?
 10:17:14 6 A. I don't know the exact number, but it
 10:17:15 7 is below the BBB minus level.
 10:17:17 8 Q. It is several rungs down; is that
 10:17:20 9 right?
 10:17:22 10 A. It is.
 10:17:23 11 Q. What caused Oakwood to go several rungs
 10:17:26 12 down within CRM's mind in the space of six months?
 10:17:29 13 A. Again, I can't speak for, you know, why
 10:17:32 14 the rating was BBB minus in June of 1999. All I
 10:17:36 15 can tell you is from my evaluation of the credit
 10:17:39 16 when I looked at it, in my viewpoint the rating
 10:17:42 17 was a B minus.
 10:17:44 18 Q. You were the person who assigned that
 10:17:46 19 rating?
 10:17:47 20 A. Myself and from discussions after
 10:17:50 21 reviewing the company with my managers, yes.
 10:17:54 22 Q. All right. Do you know who had
 10:17:55 23 assigned the earlier rating in June?
 10:17:58 24 A. I don't recall.
 10:18:03 25 Q. At the time that you gave it the

73

1 James Xanthos
 10:23:56 2 managers were ex-Price Waterhouse accountants?
 10:24:04 3 A. I don't know.
 10:24:05 4 Q. Does it have anything to do with the
 10:24:08 5 prior sentence, which discusses their lack of
 10:24:10 6 understanding of their marketplace?
 10:24:14 7 A. I don't know.
 10:24:17 8 Q. Now, what did you know in the following
 10:24:21 9 sentence, that "Various Rating Agencies have also
 10:24:24 10 noted and commented on management's performance
 10:24:27 11 and execution"?
 10:24:29 12 What had you seen from rating agencies?
 10:24:32 13 A. I'm taking -- you know, as part of the
 10:24:34 14 diligence this is -- I've read -- I read rating
 10:24:37 15 agency reviews and that was the comment that
 10:24:43 16 agencies had put out there.
 10:24:56 17 Q. Now, did you go down to North Carolina
 10:25:03 18 together with Mr. Criscito and Mr. O'Driscoll on
 10:25:08 19 the same plane?
 10:25:14 20 A. I don't recall.
 10:25:15 21 Q. Did you come back together?
 10:25:17 22 A. I don't recall.
 10:25:18 23 Q. Do you recall whether you discussed any
 10:25:20 24 of these things with Mr. O'Driscoll at all?
 10:25:22 25 A. I don't recall.

78

1 James Xanthos
 10:25:28 2 Q. Specifically can you recall whether you
 10:25:30 3 discussed with Mr. O'Driscoll your prediction in
 10:25:33 4 the next paragraph, that management would not meet
 10:25:37 5 forecasted profitability levels?
 10:25:40 6 A. I don't recall.
 10:25:43 7 Q. And did you have any basis for making
 10:25:45 8 that prediction, other than what you got from
 10:25:48 9 publicly available information and from your visit
 10:25:50 10 with the executives at Oakwood?
 10:25:57 11 A. Please repeat the question.
 10:26:00 12 Q. When you predicted that management
 10:26:03 13 would not meet the forecasted profitability levels
 10:26:08 14 in the next reporting period or in the future did
 10:26:12 15 you have any basis for making that statement other
 10:26:14 16 than what you had derived from publicly available
 10:26:18 17 information and from your visit to the executives
 10:26:19 18 in North Carolina?
 10:26:22 19 A. No.
 10:26:28 20 Q. Now, in the next paragraph beginning
 10:26:31 21 with the words "Consumer Finance" -- you're
 10:26:37 22 probably going to need to read this paragraph, I
 10:26:39 23 recognize. But you in the middle of that
 10:26:42 24 paragraph, you talk about loss on sale of loans of
 10:26:45 25 10.7 million. And I'm going to ask what you meant

79

1 James Xanthos
 10:26:50 2 by that, so please read whatever you think is
 10:26:52 3 necessary.
 10:26:53 4 (Witness looks at document.)
 10:27:33 5 A. Can you please repeat the question.
 10:27:36 6 Q. Yes.
 10:27:38 7 What was this \$10.7 million loss on the
 10:27:43 8 sale of loans?
 10:27:44 9 A. I don't recall.
 10:27:47 10 Q. Well, when you talk about the sale of
 10:27:50 11 loans were these -- did these sales occur in
 10:27:54 12 securitizations?
 10:27:56 13 A. I don't recall.
 10:27:56 14 Q. Did you learn of any other transactions
 10:27:58 15 where the company sold loans besides
 10:28:02 16 securitizations?
 10:28:03 17 A. I don't recall.
 10:28:14 18 Q. In the following sentence after the
 10:28:15 19 10.7 million you state, "It is hard to believe
 10:28:20 20 that management will not continue to experience
 10:28:22 21 the same or greater levels of losses on the sale
 10:28:31 22 of its loans due to the fact that the company must
 10:28:32 23 securitize quarterly (in order to free up its
 10:28:40 24 warehouse lines) even if doing so results in large
 10:28:42 25 losses."

80

1 James Xanthos
 10:28:47 2 Under what circumstances would
 10:28:49 3 quarterly securitizations result in large losses?
 10:28:54 4 A. I don't recall.
 10:28:57 5 Q. Well, as you understood securitizations
 10:29:01 6 for a company such as Oakwood, is it possible for
 10:29:06 7 a company such as Oakwood to lose money in a
 10:29:09 8 securitization?
 10:29:12 9 A. I do not know.
 10:29:14 10 Q. So do you have any recollection of what
 10:29:16 11 you meant by that sentence at the time you wrote
 10:29:19 12 it?
 10:29:22 13 A. No.
 10:29:28 14 Q. Did the publicly available documents
 10:29:31 15 indicate to you whether Oakwood had made or lost
 10:29:36 16 money on securitizations in the past?
 10:29:39 17 A. I do not recall.
 10:29:40 18 Q. In the ordinary course do publicly
 10:29:42 19 available documents for companies such as Oakwood
 10:29:47 20 disclose that information?
 10:29:52 21 A. Again, I do not recall.
 10:29:58 22 Q. What was the basis of your conclusion
 10:29:59 23 that Oakwood would have to engage in such
 10:30:02 24 securitizations, whether or not they suffered
 10:30:04 25 losses?

81

<p>1 James Xanthos</p> <p>10:30:12 2 A. I don't recall.</p> <p>10:30:13 3 Q. Or was it that you recognized, sir,</p> <p>10:30:16 4 that Oakwood would run out of money if it didn't</p> <p>10:30:19 5 engage in securitization transactions, even though</p> <p>10:30:23 6 those securitization transactions might result in</p> <p>10:30:25 7 losses to Oakwood?</p> <p>10:30:27 8 A. I don't recall.</p> <p>10:30:33 9 Q. Oakwood would have run out of money had</p> <p>10:30:34 10 it not engaged in securitization transactions,</p> <p>10:30:37 11 correct?</p> <p>10:30:39 12 A. I don't recall.</p> <p>10:30:52 13 Q. You knew that Mr. O'Driscoll was the</p> <p>10:30:53 14 person at CSFB in charge of Oakwood's</p> <p>10:30:59 15 securitizations, correct?</p> <p>10:31:01 16 MR. OSNATO: Objection as to the form.</p> <p>10:31:02 17 You can answer.</p> <p>10:31:03 18 A. I knew that Mr. O'Driscoll was the main</p> <p>10:31:08 19 point of contact for Oakwood.</p> <p>10:31:11 20 Q. Okay. And you knew that CSFB was the</p> <p>10:31:15 21 underwriter of a large majority of Oakwood</p> <p>10:31:18 22 securitizations, correct?</p> <p>10:31:20 23 A. Yes.</p> <p>10:31:21 24 Q. Okay. Did you inquire of</p> <p>10:31:23 25 Mr. O'Driscoll as to whether Oakwood was gaining</p> <p style="text-align: right;">82</p>	<p>1 James Xanthos</p> <p>10:33:00 2 Q. All right. Turning to the paragraph</p> <p>10:33:02 3 that begins with the word "Management," what was</p> <p>10:33:06 4 the basis of your prediction that future</p> <p>10:33:09 5 securitizations would be disastrous if the company</p> <p>10:33:11 6 had to sell at unfavorable prices to</p> <p>10:33:14 7 uncreditworthy customers?</p> <p>10:33:25 8 (Witness looks at document.)</p> <p>10:33:43 9 A. Can you please repeat the question.</p> <p>10:33:45 10 MR. CASTANARES: Would the reporter</p> <p>10:33:46 11 please read it back.</p> <p>10:33:47 12 (Record read.)</p> <p>10:34:08 13 A. I don't recall.</p> <p>10:34:09 14 Q. Is that something you discussed with</p> <p>10:34:11 15 Mr. O'Driscoll?</p> <p>10:34:14 16 A. No.</p> <p>10:34:15 17 Q. Did you observe anything about the</p> <p>10:34:18 18 company's credit underwriting standards at that</p> <p>10:34:21 19 time?</p> <p>10:34:23 20 A. No.</p> <p>10:34:26 21 Q. What was the basis of your concern that</p> <p>10:34:29 22 the company might have to sell to uncreditworthy</p> <p>10:34:32 23 customers?</p> <p>10:34:33 24 A. I don't recall.</p> <p>10:34:37 25 Q. Did Oakwood differ from other players</p> <p style="text-align: right;">84</p>
<p>1 James Xanthos</p> <p>10:31:26 2 or losing money on securitizations?</p> <p>10:31:29 3 A. I don't recall.</p> <p>10:31:30 4 Q. Did you inquire of Mr. O'Driscoll</p> <p>10:31:32 5 whether, in fact, Oakwood needed to continue doing</p> <p>10:31:36 6 quarterly securitizations, whether or not it</p> <p>10:31:38 7 gained or lost money on those transactions?</p> <p>10:31:42 8 A. I don't recall.</p> <p>10:31:42 9 Q. When you used the term warehouse</p> <p>10:31:45 10 facility in this document were you referring to</p> <p>10:31:47 11 the same kind of facility that you have earlier</p> <p>10:31:49 12 today characterized as a securitized credit</p> <p>10:31:52 13 transaction?</p> <p>10:31:57 14 A. I don't recall.</p> <p>10:32:08 15 Q. In the paragraph that begins with the</p> <p>10:32:09 16 term "As noted" you conclude that management had</p> <p>10:32:15 17 used long-term debt and equity to finance current</p> <p>10:32:19 18 assets.</p> <p>10:32:21 19 Do you see that?</p> <p>10:32:27 20 (Witness looks at document.)</p> <p>10:32:43 21 A. Okay.</p> <p>10:32:44 22 Q. Was there any connection in your mind</p> <p>10:32:46 23 between — or relationship between that fact and</p> <p>10:32:49 24 the need to do constant securitizations?</p> <p>10:32:55 25 A. No.</p> <p style="text-align: right;">83</p>	<p>1 James Xanthos</p> <p>10:34:40 2 in the industry in terms of the potential</p> <p>10:34:45 3 necessity to sell at unfavorable prices to</p> <p>10:34:48 4 uncreditworthy customers?</p> <p>10:34:50 5 A. I don't recall.</p> <p>10:35:00 6 Q. And assuming that the company would</p> <p>10:35:06 7 have to sell at unfavorable prices to</p> <p>10:35:10 8 uncreditworthy customers, how would that have</p> <p>10:35:13 9 caused future securitizations to be disastrous?</p> <p>10:35:25 10 A. Well, anytime a change in underwriting</p> <p>10:35:30 11 occurs, whether it be good or bad, future</p> <p>10:35:35 12 performance will most likely reflect what changes</p> <p>10:35:39 13 were made at any given point in time.</p> <p>10:35:42 14 Q. And how does that relate to the</p> <p>10:35:44 15 question I just asked?</p> <p>10:35:47 16 A. Well, I think your question was how</p> <p>10:35:49 17 would securitization performance change over time?</p> <p>10:35:53 18 Q. Why would future securitizations be</p> <p>10:35:55 19 disastrous if management had to sell at</p> <p>10:35:57 20 unfavorable prices to uncreditworthy customers?</p> <p>10:36:03 21 A. I don't recall why that statement was</p> <p>10:36:06 22 made.</p> <p>10:36:15 23 Q. You observed this company again in 2001</p> <p>10:36:18 24 in connection with a transaction that you have</p> <p>10:36:22 25 called a securitized credit facility, correct?</p> <p style="text-align: right;">85</p>

<p>1 James Xanthos 11:57:21 2 MR. CASTANARES: Yes. 11:57:22 3 MR. OSNATO: Because Mr. Xanthos 11:57:23 4 appears to be looking at the first two pages 11:57:26 5 of the narrative document. 11:57:27 6 MR. CASTANARES: Oh, I'm sorry. 11:57:28 7 MR. OSNATO: Let's try that again. 11:57:28 8 MR. CASTANARES: Hold on one second. 11:57:30 9 THE WITNESS: I'm sorry. 11:57:30 10 Q. I'm going to ask you to look at the 11:57:32 11 first two pages of Exhibit 138, which is Bates 11:57:35 12 stamped 99 and 00, and ask you what function that 11:57:38 13 document performed other than simply summarizing 11:57:41 14 the transaction. 11:57:44 15 A. I think that's all it was meant to 11:57:46 16 represent, as well as who the ultimate sign-off on 11:57:51 17 the credit was. 11:57:53 18 Q. All right. And the ultimate sign-off 11:57:57 19 being Irwin, Miller, and O'Brien; is that correct? 11:58:00 20 A. Yes. 11:58:05 21 Q. Do you know who Deborah Herrera was? 11:58:09 22 A. She was in the control/operations 11:58:14 23 group. They basically processed these credit 11:58:17 24 applications. 11:58:20 25 Q. Was that part of CRM?</p> <p style="text-align: right;">130</p>	<p>1 James Xanthos 11:59:38 2 Q. What exactly is the "conduit group"? 11:59:41 3 A. It's the funding arm of the bank, which 11:59:44 4 funded most of these facilities. 12:00:01 5 Q. Was the conduit group the arm that 12:00:03 6 generally would be taking the credit risk that you 12:00:05 7 were being asked to evaluate? 12:00:09 8 A. It would depend on the specific credit 12:00:12 9 or situation. 12:00:14 10 Q. In this case was it? 12:00:24 11 A. It appears that in this case it wasn't. 12:00:27 12 Q. Who was it in this case? 12:00:30 13 A. From the write-up that you provided me 12:00:32 14 it seems that it is CSFBI that is taking on the 12:00:37 15 credit risk. 12:00:38 16 Q. All right. Now, in the ordinary course 12:00:41 17 did you review credit risk undertaken by CSFBI? 12:00:45 18 A. No. 12:00:48 19 Q. Was there any other transaction besides 12:00:50 20 this one in which you did so? 12:00:52 21 A. Not that I recall. 12:00:53 22 Q. Do you have any understanding of why it 12:00:55 23 was that you were asked to do so in connection 12:00:57 24 with this one transaction? 12:00:59 25 A. Not that I recall.</p> <p style="text-align: right;">132</p>
<p>1 James Xanthos 11:58:21 2 A. I believe so. 11:58:26 3 Q. And her duties were clerical? 11:58:28 4 A. I believe so. 11:58:29 5 Q. How about Prescott Harris? 11:58:36 6 A. The same. 11:58:37 7 Q. Okay. And is this a document that you 11:58:39 8 prepared, these first two pages? 11:58:41 9 A. No. 11:58:41 10 Q. Who would have prepared that? 11:58:43 11 A. I think it would be -- this is system 11:58:46 12 generated. 11:58:56 13 Q. All right. So it wouldn't have had a 11:58:58 14 specific author? 11:58:59 15 A. It would. You can see above 11:59:02 16 Mr. Miller, Mr. Irwin, and Mr. O'Brien's 11:59:07 17 signature, that the -- I guess the recommendation 11:59:12 18 came through from the conduit group, 11:59:15 19 Mr. Alberto Zonca. 11:59:19 20 Q. Okay. 11:59:20 21 A. Just take a step back. 11:59:23 22 The credit process evolved over time 11:59:27 23 where you could -- you would see an officer within 11:59:31 24 the conduit group submit a credit package, which 11:59:35 25 would have been reviewed by the credit group.</p> <p style="text-align: right;">131</p>	<p>1 James Xanthos 12:01:00 2 Q. Does CSFBI, to your knowledge, have or 12:01:03 3 did it at the time have its own credit risk 12:01:06 4 management team? 12:01:07 5 A. I don't know. 12:01:12 6 Q. Is there somebody at CSFBI that you 12:01:15 7 dealt with with respect to this transaction? 12:01:18 8 A. Not that I recall. 12:01:19 9 Q. What did you understand CSFBI to be? 12:01:23 10 A. I don't recall. 12:01:34 11 Q. Now, did you do a completely new credit 12:01:38 12 review at the time of this transaction similar to 12:01:43 13 the one you had done a year before with respect to 12:01:46 14 the reverse repo or did you just simply build on 12:01:49 15 the old one? 12:01:50 16 A. That I don't recall. 12:01:54 17 Q. Did you -- 12:01:55 18 I take it with respect to this one at 12:01:56 19 least you examined publicly available documents? 12:02:00 20 A. Always evaluate publicly available. 12:02:02 21 Q. Do you recall whether you made a new 12:02:03 22 visit to the company in connection with this one? 12:02:06 23 A. I don't recall. 12:02:09 24 Q. Do you recall anything else that you 12:02:10 25 did or any other sources of information that you</p> <p style="text-align: right;">133</p>

<p>1 James Xanthos</p> <p>12:02:12 2 had in connection with the review that is part of</p> <p>12:02:16 3 Exhibit 138?</p> <p>12:02:22 4 (Witness looks at document.)</p> <p>12:02:58 5 A. It seems that I'm -- that there were</p> <p>12:03:03 6 three items that were being asked for as</p> <p>12:03:05 7 follow-ups, which were obtained. It's actually on</p> <p>12:03:08 8 802. It appears that most of the information I</p> <p>12:03:11 9 received was from public -- EDGAR public</p> <p>12:03:16 10 documents. And here there's three other items</p> <p>12:03:21 11 that were being asked for. I guess some of them</p> <p>12:03:24 12 would be public, some of them wouldn't be.</p> <p>12:03:34 13 Q. All right. So does that help you to</p> <p>12:03:36 14 answer the question of whether -- of exactly what</p> <p>12:03:39 15 you did, besides looking at public documents, in</p> <p>12:03:42 16 connection with this credit review?</p> <p>12:03:44 17 A. I don't recall.</p> <p>12:03:53 18 Q. There's evidence that as part of this</p> <p>12:03:55 19 transaction CSFB or somebody in the Credit Suisse</p> <p>12:04:00 20 family was to get a warrant to purchase</p> <p>12:04:01 21 approximately 20 percent of the stock of Oakwood</p> <p>12:04:04 22 Homes, was that something you were aware of at the</p> <p>12:04:07 23 time?</p> <p>12:04:10 24 A. I was aware of it, but I didn't know</p> <p>12:04:12 25 the specifics of it.</p> <p style="text-align: right;">134</p>	<p>1 James Xanthos</p> <p>12:05:44 2 about the assumptions used for that purpose?</p> <p>12:05:47 3 MR. OSNATO: Objection as to the form.</p> <p>12:05:55 4 (Witness looks at document.)</p> <p>12:06:01 5 A. I don't know.</p> <p>12:06:03 6 Q. Do you know what interests it was that</p> <p>12:06:09 7 were being evaluated?</p> <p>12:06:11 8 A. Per this write-up it says "Retained</p> <p>12:06:14 9 Residual Interests."</p> <p>12:06:16 10 Q. Do you know what those consisted of?</p> <p>12:06:19 11 A. This is the excess spread that we</p> <p>12:06:20 12 talked about earlier. The difference between the</p> <p>12:06:22 13 bonds -- the weighted average coupon upon the</p> <p>12:06:26 14 asset versus what the investor is receiving in</p> <p>12:06:29 15 terms of a coupon.</p> <p>12:06:34 16 Q. I'm sorry, could you elaborate on that</p> <p>12:06:36 17 explanation for me a little bit, I don't think I</p> <p>12:06:38 18 follow it.</p> <p>12:06:39 19 A. It's the excess -- it's the difference</p> <p>12:06:41 20 between the interest that is being earned on a</p> <p>12:06:44 21 mortgage, let's say it's 8 percent, for example,</p> <p>12:06:46 22 versus the bond that is paying 5 percent to</p> <p>12:06:49 23 investors. It's that 3 percent difference.</p> <p>12:06:55 24 Q. In doing credit evaluations for</p> <p>12:07:02 25 companies having securitizations such as these did</p> <p style="text-align: right;">136</p>
<p>1 James Xanthos</p> <p>12:04:14 2 Q. Okay. Are you aware of any effort made</p> <p>12:04:16 3 at that time to place a value upon that warrant?</p> <p>12:04:20 4 A. No.</p> <p>12:04:25 5 Q. In the ordinary course when such</p> <p>12:04:28 6 consideration was received by CSFB in a</p> <p>12:04:31 7 transaction being evaluated by CRM would anybody</p> <p>12:04:36 8 make an effort to place a value upon it?</p> <p>12:04:44 9 A. I don't know.</p> <p>12:04:45 10 Q. Do you recall asking any questions</p> <p>12:04:46 11 about that warrant?</p> <p>12:04:47 12 A. It had nothing to do with my</p> <p>12:04:51 13 evaluation.</p> <p>12:05:02 14 Q. Let me ask you to turn to page 805.</p> <p>12:05:04 15 And under -- down at the bottom there there is a</p> <p>12:05:11 16 bold-faced caption, "Assumptions Used to,"</p> <p>12:05:16 17 et cetera.</p> <p>12:05:17 18 Do you see that?</p> <p>12:05:19 19 A. Yes.</p> <p>12:05:32 20 Q. Were you the one who performed</p> <p>12:05:35 21 evaluation of residual interests?</p> <p>12:05:38 22 A. No.</p> <p>12:05:38 23 Q. Do you know who did?</p> <p>12:05:41 24 A. No.</p> <p>12:05:43 25 Q. What was the source of this information</p> <p style="text-align: right;">135</p>	<p>1 James Xanthos</p> <p>12:07:07 2 CRM in the ordinary course attempt to evaluate</p> <p>12:07:11 3 those residual interests?</p> <p>12:07:19 4 A. I don't recall.</p> <p>12:07:19 5 Q. Well, can you give me any information</p> <p>12:07:21 6 at all about how this information under</p> <p>12:07:25 7 "Assumptions Used to Value Retained Residual</p> <p>12:07:30 8 Interests" came to be in this document,</p> <p>12:07:32 9 Exhibit 138?</p> <p>12:07:33 10 A. No.</p> <p>12:07:37 11 Q. And can you give me any information at</p> <p>12:07:38 12 all about where you got this information?</p> <p>12:07:41 13 A. No.</p> <p>12:07:44 14 Q. Did you attempt to evaluate how</p> <p>12:07:47 15 realistic these valuations were?</p> <p>12:07:50 16 A. I don't recall.</p> <p>12:07:55 17 Q. Let me ask you to look at the next</p> <p>12:07:57 18 paragraph.</p> <p>12:08:02 19 (Witness looks at document.)</p> <p>12:08:08 20 A. "Beginning in 1994?"</p> <p>12:08:11 21 Q. Yes. Please read through that</p> <p>12:08:13 22 paragraph. I'm going to ask you really about the</p> <p>12:08:16 23 last sentence of it.</p> <p>12:08:17 24 (Witness looks at document.)</p> <p>12:08:43 25 A. Okay.</p> <p style="text-align: right;">137</p>

1 James Xanthos
 14:15:16 2 this e-mail?
 14:15:17 3 A. I don't recall.
 14:15:20 4 Q. Did you ever see any particular
 14:15:23 5 documents or did conversation occur that informed
 14:15:26 6 you that the decision-making function from a risk
 14:15:31 7 management perspective was transferred from CRM to
 14:15:34 8 this other group?
 14:15:40 9 A. I'm sure I don't remember.
 14:15:42 10 Q. All right. Other than supervising you
 14:15:46 11 in the various Oakwood-related transactions that
 14:15:53 12 we have discussed today do you know whether
 14:15:55 13 Mr. Irwin performed any other role?
 14:16:02 14 MR. OSNATO: Object to the form of the
 14:16:02 15 question.
 14:16:03 16 I mean, in his job at Credit Suisse
 14:16:06 17 across the board?
 14:16:08 18 MR. CASTANARES: With respect to
 14:16:10 19 Oakwood. Yeah, sorry.
 14:16:11 20 A. What's the question one more time?
 14:16:13 21 Q. Yeah. Did Mr. Irwin do anything with
 14:16:14 22 respect to the Oakwood transactions, other than
 14:16:17 23 send the e-mails we've seen today and supervise
 14:16:20 24 you?
 14:16:21 25 MR. OSNATO: Same objection.

186

1 James Xanthos
 14:17:22 2 anyone other than Credit Suisse's counsel and
 14:17:26 3 obviously your counsel who is here today?
 14:17:28 4 A. No.
 14:17:36 5 Q. Okay. Did you see any documents in
 14:17:38 6 preparing for your deposition that refreshed your
 14:17:41 7 memory of the events that I've asked you about
 14:17:44 8 today?
 14:17:44 9 MR. OSNATO: You can answer that yes or
 14:17:47 10 no for now.
 14:17:48 11 A. I saw a few documents.
 14:17:51 12 Q. Did any of them refresh your memory
 14:17:53 13 about the events that I've asked you about today?
 14:17:55 14 A. Not -- not to any large degree, no.
 14:17:59 15 Q. Well, to any degree?
 14:18:07 16 A. Again, depending on the situation it
 14:18:12 17 may have -- I may have remembered something over
 14:18:16 18 the past six years, yes.
 14:18:18 19 Q. Well, to the extent that any documents
 14:18:20 20 you saw in preparation for this deposition did
 14:18:23 21 refresh your memory of those events, have we seen
 14:18:27 22 them today in this deposition?
 14:18:28 23 A. I believe so, yes.
 14:18:29 24 MR. CASTANARES: Thank you, sir. I
 14:18:30 25 have no further questions for you.

188

1 James Xanthos
 14:16:22 2 You can answer if you understand the
 14:16:24 3 question.
 14:16:25 4 A. I don't recall.
 14:16:26 5 Q. Okay. Do you know whether he ever met
 14:16:28 6 with any Oakwood people?
 14:16:30 7 A. Again, I don't recall.
 14:16:33 8 Q. Do you know whether he ever met with
 14:16:36 9 any Berkshire people?
 14:16:38 10 A. I do not know.
 14:16:38 11 Q. Or discussed anything with them about
 14:16:41 12 Oakwood?
 14:16:41 13 A. I have no knowledge about it.
 14:16:42 14 Q. Okay. Have you now told me everything
 14:16:45 15 that you can recall about any direct contact that
 14:16:47 16 you had with any Oakwood people?
 14:16:50 17 A. To the best of my ability, yes.
 14:16:53 18 Q. Okay. And that was limited to that one
 14:16:56 19 meeting that you had with respect to the first
 14:16:59 20 credit, and then there's a reference to a
 14:17:01 21 conference call with Mr. Muir in another e-mail.
 14:17:05 22 Do you recall any direct contact with
 14:17:07 23 Oakwood other than those two events?
 14:17:08 24 A. Not that I can remember, no.
 14:17:20 25 Q. Have you discussed this lawsuit with

187

1 James Xanthos
 14:18:32 2 THE WITNESS: Thank you.
 14:18:33 3 THE VIDEOGRAPHER: Any further
 14:18:34 4 questions?
 14:18:34 5 MR. OSNATO: No further questions from
 14:18:35 6 defense counsel.
 14:18:37 7 THE VIDEOGRAPHER: Okay. This
 14:18:37 8 concludes for today, August 24, 2006, the
 14:18:40 9 videotaped deposition of James Xanthos. The
 14:18:43 10 total number of tapes used was four. Going
 14:18:47 11 off the record. The time is 2:18 p.m.
 14:18:51 12 (Time noted: 2:18 p.m.)
 14:18:51 13 JAMES XANTHOS
 14:18:51 14 Subscribed and sworn to before me
 14:18:51 15 this ____ day of ____, 2006.
 14:18:51 16
 14:18:51 17 (Notary Public) My Commission Expires:
 14:18:51 18
 14:18:51 19
 14:18:51 20
 14:18:51 21
 14:18:51 22
 14:18:51 23
 14:18:51 24
 14:18:51 25

189

EXHIBIT C

THOMAS IRWIN
UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

-----x

In Re:
OAKWOOD HOMES CORPORATION,
et al.,

Debtors.

Chapter 11
Case No. 02-13396 (PJW)

-----x

OHC LIQUIDATION TRUST,
Plaintiff,

v. ADV. Proc.No. 04-57060 (PJW)

CREDIT SUISSE FIRST BOSTON, a
Swiss banking corporation,
CREDIT SUISSE FIRST BOSTON
LLC, a Delaware limited
liability corporation, CREDIT
SUISSE FIRST BOSTON, INC.,
CREDIT SUISSE FIRST BOSTON
(U.S.A.), INC., a Delaware
corporation and a wholly owned
subsidiary of CREDIT SUISSE
FIRST BOSTON, INC., the
subsidiaries and affiliates of
each, and DOES 1 through 100,

Defendants.

-----x

November 8, 2006
9:04 a.m.

Page 14

THOMAS IRWIN

A. It was different at different times.

Q. Could you just outline for me your formal education after high school and any employment you may have had prior to working at Credit Suisse?

A. Rutgers University, Cook College, Bachelor's of Science in environmental and business economics, 1986. 1986 to 1987, E.F. Hutton & Company. 1987 to 1988, Dean Witter & Company. 1988 to 1990 with Elders Finance. 1990 to 1993 with PaineWebber. '93 to '95 with MBLA, Inc. And then '95 to 2003 with Credit Suisse First Boston, originally Credit Suisse, then Credit Suisse First Boston.

Q. Great. Thank you.

Now I want to talk just generally about how Credit Suisse's credit department worked. Not focusing on any particular proposals at all, but could you just explain to me the process from start to finish in terms of how would a particular credit normally be proposed, how would it be evaluated, and then how would a decision be rendered on any given proposal in the ordinary course of business?

Page 15

THOMAS IRWIN

A. During -- I don't understand.

Q. Just generally how did your department work, like where would you get assignments from? I will break it down into pieces.

A. Thank you.

Q. Where would credit proposals that your department evaluated come from?

A. During what time period? I'm sorry.

Q. During late 1999 to 2000?

A. Credit proposals were generated by the business units, they were submitted into analysts, analysts would perform the initial credit review, they would submit them to me.

Q. What would you do upon receiving that review?

A. Would work -- analyze the credit with the analyst, clarify questions. If I felt that the credit warranted being passed on to a senior credit officer I would.

Q. Was there some type of back and forth conversation with the particular business unit that proposed the -- any given credit?

A. Yes.

Q. What was the nature of that

Page 16

THOMAS IRWIN

conversation?

A. They would present credits, we would ask questions, they would answer the questions.

Q. In the ordinary course of business did you usually prepare any written work product beyond what the analyst prepared?

A. No.

Q. So your role was principally reviewing the work product of the analyst, honing it and following up on that review?

A. Yes.

Q. Then what in the ordinary course of business would Mr. Miller and Mr. O'Brien be responsible for doing?

A. It was a sequential credit process, so if I approved the credit and wanted to bring it on for further approval I would bring it up to Mr. Miller, then subsequently it could go on to Mr. O'Brien.

Q. Were there particular thresholds of credit beyond a certain amount? Your approval would be sufficient for, say, X amount, but any amount in excess of that particular amount would need to be submitted to Mr. Miller or Mr.

Page 17

THOMAS IRWIN

O'Brien for their review?

MR. OSNATO: Object as to form. You can answer that question if you understand it.

A. There were thresholds.

Q. Do you recall what those thresholds were?

A. No.

Q. In the ordinary course of business during the time period from 1999 to 2003, what sort of factors generally beared on your decision as to whether or not to grant or deny a particular credit proposal?

MR. OSNATO: Objection as to the form. You can answer if you understand.

A. Could you restate?

Q. Sure. What factors did you consider important in determining whether or not to approve or deny a particular credit proposal?

MR. OSNATO: Same objection. You can answer.

A. The credit analysis.

Q. What sort of factors would be included within the analysis?

A. Structure, collateral, liabilities,

Page 18

1 THOMAS IRWIN

2 general credit assessment.

3 Q. In the ordinary course of business,
4 would you normally review the underlying
5 company, the strength of -- say, for example, in
6 your transaction resembling some of those
7 involving Oakwood Homes in which certain
8 affiliates of the company were originators of
9 receivables, would you ordinarily review the
10 credit profile of the originator or the
11 underlying company?

12 MR. OSNATO: Objection as to the form.

13 A. Yes.

14 MR. OSNATO: You can answer.

15 A. Yes.

16 Q. What sort of factors bore on that
17 analysis?

18 A. Traditional credit analysis, assets,
19 liabilities, cash flow, income.

20 Q. In the course of the credit analysis,
21 what role did potential fees or profit to Credit
22 Suisse play?

23 A. Excuse me, I'm sorry, could you
24 rephrase that?

25 Q. Sure. When reviewing any given credit

Page 20

1 THOMAS IRWIN

2 information principally be publicly available
3 information or would it be nonpublic
4 information?

5 A. It could be either or.

6 Q. Now, once the credit analysis had been
7 performed, how if at all did the results of that
8 analysis go out of the credit department? For
9 example, in your discussions with the business
10 unit that proposed a particular credit, would
11 you relay to them the factors that bore on the
12 credit analysis?

13 A. Sometimes they were present when the
14 decision was made, sometimes we would notify
15 them.

16 Q. In the course of notifying them, would
17 you explain why the credit was denied?

18 A. Yes.

19 Q. What sort of elaborations would you
20 provide, what sort of detail would you provide?

21 A. What was necessary.

22 Q. Was there any detail that you were
23 barred from providing?

24 A. I don't recall.

25 Q. Was there any detail that in the

Page 19

1 THOMAS IRWIN

2 proposal, what role did the potential fees or
3 income that could be earned by a business unit
4 of Credit Suisse play in the analysis of whether
5 or not to grant that particular credit proposal?

6 MR. OSNATO: Objection as to the
7 foundation. You can answer.

8 A. It didn't.

9 Q. It played absolutely no role
10 whatsoever?

11 A. In the -- in the analysis? It could
12 be considered in the analysis.

13 Q. So it did play some role, then?

14 A. It could be included in the analysis.

15 Q. Now, in the course of performing a
16 credit analysis, where did the information that
17 was fed into that analysis come from?

18 A. I'm sorry?

19 Q. In the course of analyzing a
20 particular credit, where would the analyst look
21 for information to prepare the analysis?

22 A. It would be presented to us by the
23 business unit or sometimes directly from the
24 counter party.

25 Q. In the ordinary course would such

Page 21

1 THOMAS IRWIN

2 ordinary course of business you generally didn't
3 provide?

4 A. No, I don't think so.

5 Q. Now I want to talk specifically about
6 Oakwood Homes.

7 When, Mr. Irwin, did you get first
8 involved with any credit proposal relating to
9 the Oakwood Homes Corporation?

10 A. I don't recall precisely.

11 Q. Do you recall approximately?

12 A. November of '99.

13 Q. Do you recall what that credit
14 proposal was?

15 A. No.

16 Q. During the time period between late
17 1999 and early 2003, approximately what percent
18 of your professional time would you say you
19 spent on credit issues relating to Oakwood
20 Homes?

21 A. I wouldn't know.

22 Q. Were there variances in the amount of
23 time that you spent on issues relating to
24 Oakwood Homes?

25 A. It varied.

Page 158

THOMAS IRWIN

1 would have a negative effect, correct?

2 A. If Oakwood weren't receiving servicing
3 fees as a result of a transfer, that's possible.

4 Q. Do you recall ever having discussions
5 with anyone in your department or elsewhere
6 within CSFB regarding whether or not Oakwood
7 could survive such an effect?

8 A. Servicing transfers are discussed on
9 most facilities so it is possible we would have
10 discussed it on this one also.

11 Q. But would you have had the specific
12 discussion regarding the effect on Oakwood and
13 whether or not that was a positive event for
14 Oakwood?

15 MR. OSNATO: Object to the form. You
16 can answer.

17 A. It's possible that we had that
18 discussion.

19 Q. But you don't know specifically?

20 A. Not specifically.

21 Q. Do you know, Mr. Irwin, whether or not
22 the proposed transfer of the servicing function
23 was ever actually effected?

24 A. No, I don't.
25

Page 159

THOMAS IRWIN

1 Q. You just don't know --

2 A. I don't know.

3 Q. Do you have any recollection, Mr.
4 Irwin, of a proposal to charge Oakwood a restart
5 fee to restart its warehouse facility after
6 bankruptcy?

7 A. No, I don't.

8 Q. Would such a fee be typical or
9 ordinary in your business?

10 A. I don't know.

11 Q. You have never been involved in a
12 transaction in which a restart fee was charged?

13 A. I was never -- I have never been
14 directly involved in a restart.

15 Q. So the answer is no, then --

16 A. Correct.

17 Q. Okay. I'm going to show you what's
18 previously been marked as Exhibit 114.

19 A. Okay. I'm not going to look through
20 the whole thing.

21 Q. Makes sense.

22 Do you recall ever seeing this
23 document before, Mr. Irwin?

24 A. No, I don't.
25

Page 160

THOMAS IRWIN

1 Q. Do you know who prepared this
2 document?

3 A. No, I don't.

4 Q. If you look at the front page of the
5 document it is entitled Presentation to Credit
6 Risk Management.

7 Was it typical that CRM would receive
8 presentations of these sorts?

9 A. Yes.

10 Q. From whom would such presentations
11 typically come?

12 A. A business unit.

13 Q. For what purpose would such
14 presentations be made?

15 A. For the purpose of obtaining credit.

16 Q. But you have no recollection as to why
17 this presentation was made or whether it was
18 made at all?

19 A. I have no recollection of it.

20 Q. Whatsoever? Okay.

21 If you will turn to the page that ends
22 in the Bates No. 144?

23 A. Okay,

24 Q. Do you have any recollection as to
25

Page 161

THOMAS IRWIN

1 when all these various -- all these tasks
2 occurred?

3 A. I don't recall when they occurred.

4 Q. Do you have any recollection as to
5 whether any of them were even started prior to
6 Oakwood's bankruptcy?

7 A. I don't have knowledge of that.

8 Q. In your experience, Mr. Irwin, would
9 completion of these tasks be the sort of thing
10 that would only be possible following a
11 bankruptcy petition?

12 A. Some of them.

13 Q. Which ones?

14 A. DIP term sheet.

15 Q. So it would not be possible to review
16 a DIP term sheet prior to a bankruptcy petition?

17 A. I had not been involved in -- so, you
18 know, that would be my view, but I have not --
19 you know.

20 Q. Can you explain to me why it wouldn't
21 be possible to review a DIP term sheet until
22 after a bankruptcy petition had been filed?

23 A. I can't explain that. I'm not a DIP
24 financier. I guess that is probably the best
25

EXHIBIT D

1

2 UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

3

-----x
In Re:) Chapter 11
4 OAKWOOD HOMES CORPORATION,) Case No. 02-13396
et al.,) (PJW)
5 Debtors.) Jointly Administered

6

-----x
OHC LIQUIDATION TRUST,)
Plaintiff,)

7

vs.) Adv. Proc. No.
CREDIT SUISSE FIRST BOSTON, a) 04-57060 (PJW)

8

Swiss banking corporation,)

9

CREDIT SUISSE FIRST BOSTON)

10

LLC, a Delaware limited)

11

liability corporation, CREDIT)

12

SUISSE FIRST BOSTON, INC.,)

13

CREDIT SUISSE FIRST BOSTON)

14

(U.S.A.), INC., a Delaware)

15

corporation and a wholly)

16

owned subsidiary of CREDIT)

17

SUISSE FIRST BOSTON, INC., the)

18

subsidiaries and affiliates)

19

of each, and DOES 1 through)

20

100,)

21

Defendants.)

22

-----x

23

June 29, 2006

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9:22 a.m.

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<p>1 10:02:55 2 A. Okay. Can you rephrase your question? 10:02:57 3 Q. Who were the persons who had the 10:02:59 4 authority to say yes or nay to that facility? 10:03:01 5 MR. OSNATO: And I'm going to object 10:03:03 6 as - 10:03:04 7 A. You know - 10:03:04 8 MR. OSNATO: - to the - 10:03:04 9 Let me finish, please. 10:03:05 10 THE WITNESS: Yeah. 10:03:06 11 MR. OSNATO: - as to - I think we 10:03:06 12 could move forward a lot more expeditiously 10:03:09 13 if we used a term other than yes or nay. 10:03:12 14 Because, as Mr. O'Driscoll has testified, 10:03:14 15 there are multiple approvals. 10:03:16 16 And if you are asking specifically 10:03:18 17 about a credit approval it may be useful to 10:03:22 18 phrase your question accordingly, rather than 10:03:24 19 across the board. 10:03:25 20 MR. CASTANARES: You may answer. 10:03:27 21 A. Within - let me try to answer your 10:03:30 22 question as follows, on any transaction of this 10:03:33 23 sort, which I think is probably the easier way to 10:03:36 24 explain it, we would make a submission, which 10:03:40 25 might be in writing or might be a verbal</p> <p style="text-align: right;">46</p>	<p>1 10:05:04 2 of Credit Suisse to a given counterparty. 10:05:07 3 Q. All right. Maybe we can cut this 10:05:08 4 short. 10:05:08 5 Were the people that had the ultimate 10:05:10 6 decision-making authority on whether or not to 10:05:12 7 grant this facility in the CRM department? 10:05:16 8 Because - let me try to distinguish 10:05:18 9 this for you. There are certain companies in 10:05:20 10 which a credit manager will make a recommendation. 10:05:23 11 And there is some executive who has the authority 10:05:25 12 to make the decision, irrespective of whether he's 10:05:28 13 following the credit manager's recommendation or 10:05:30 14 not. I'm just trying to find out who the ultimate 10:05:33 15 decision-making authorities were on this 10:05:34 16 particular facility. 10:05:40 17 A. The - Tom Irwin, who is a credit 10:05:43 18 officer for the Oakwood facility, technically had 10:05:47 19 the authority to say yes or nay for the 10:05:49 20 transaction on his own. In this particular 10:05:53 21 instance he chose not to, which was not an unusual 10:05:56 22 thing. That was actually fairly common, because 10:05:58 23 even though people had this theoretical capability 10:06:01 24 to approve things, a lot of stuff got done by 10:06:05 25 committee, if you will, within credit risk</p> <p style="text-align: right;">48</p>
<p>1 10:03:43 2 submission to credit risk management, usually only 10:03:48 3 after we had discussed the matter with our 10:03:51 4 supervisors. 10:03:52 5 And that that submission to credit risk 10:03:56 6 management would detail the nature of the company 10:04:01 7 in question to whom we would be entering into the 10:04:04 8 loan purchase facility, or the warehouse, or the 10:04:07 9 reverse repo agreement, or whatever the form of it 10:04:10 10 was. 10:04:11 11 Individual people within credit risk 10:04:13 12 management had formally the authority to commit to 10:04:17 13 transactions with exposures up to certain limits. 10:04:24 14 And that - there was kind of a hierarchy, if you 10:04:28 15 will, of the exposure limits that somebody would 10:04:30 16 be allowed to enter into. 10:04:32 17 How that exposure was measured varied 10:04:34 18 significantly, depending upon the nature of the 10:04:36 19 transaction in question, because you would have to 10:04:39 20 approach CRM for transactions not merely ones that 10:04:46 21 would be things such as, say, a warehouse loan or 10:04:51 22 something of that sort. But things such as 10:04:53 23 credit - such as, for instance, interest rate 10:04:57 24 swaps, things such as delayed settlement, really 10:05:00 25 anything that could give rise to a credit exposure</p> <p style="text-align: right;">47</p>	<p>1 10:06:08 2 management. 10:06:10 3 And he - the ultimate approval for it 10:06:12 4 came not just from him, but I know for certain 10:06:14 5 that his supervisor, which was a gentleman by the 10:06:16 6 name of David Malletta - 10:06:21 7 Q. Spell that, please. 10:06:21 8 A. David Malletta, M-a - I'm not so sure 10:06:24 9 I'm going to have the spelling right. I'm going 10:06:26 10 to have a crack at it. M-a-l-l-e-t-t-a. 10:06:32 11 Q. All right. 10:06:32 12 A. Give or take. 10:06:33 13 And in turn his supervisor, 10:06:35 14 Robert O'Brien, were involved in the 10:06:37 15 transaction, as well as his supervisor, which 10:06:40 16 was Dick Thornburgh, Richard Thornburgh. 10:06:44 17 Q. How does James Xanthos, X-a-n-t-h-o-s, 10:06:49 18 fit into that hierarchy? 10:06:51 19 A. He was an associate who worked for 10:06:53 20 Tom Irwin. 10:06:55 21 Q. All right. Had you completed your 10:06:57 22 answer? 10:06:58 23 A. Yes. 10:06:58 24 Q. Thank you. 10:06:59 25 All right. And do I take it then, sir,</p> <p style="text-align: right;">49</p>

<p>1 Flachra O'Driscoll 10:07:05 2 that to the extent that you had contact with CSFB 10:07:11 3 New York branch regarding this facility your 10:07:13 4 contact was with somebody in the CRM department? 10:07:19 5 A. Not necessarily, because CRM covered 10:07:23 6 not just the New York branch, but it also covered 10:07:26 7 Credit Suisse First Boston Corporation, the 10:07:28 8 broker-dealer. I would also have talked to 10:07:30 9 Tony Giordano, who is the -- one of the officers 10:07:35 10 at least during that period of time within the 10:07:36 11 New York branch, and probably to other people as 10:07:39 12 well. 10:07:40 13 Q. All right. And Mr. Giordano was 10:07:44 14 employed by the broker-dealer? 10:07:46 15 A. I believe he was employed by the 10:07:49 16 branch. 10:07:50 17 Q. Is that the broker-dealer? 10:07:51 18 A. No, the branch. 10:07:53 19 Q. The branch. Okay. 10:07:55 20 All right. And what was his role in 10:07:59 21 that -- this facility? 10:08:02 22 A. His role was to represent the branch. 10:08:04 23 Q. On issues other than CRM issues? 10:08:07 24 A. Precisely. 10:08:08 25 Q. Okay. And what was the nature of his</p> <p style="text-align: right;">50</p>	<p>1 Flachra O'Driscoll 10:09:14 2 You can answer. 10:09:15 3 A. I believe that's correct. 10:09:18 4 Q. And one of the things that CSFB was 10:09:20 5 attempting to do was to put into place what it 10:09:24 6 referred to at the time as a warehouse facility, 10:09:26 7 correct? 10:09:27 8 MR. OSNATO: Same objection. 10:09:30 9 A. I don't think that's correct. 10:09:32 10 Q. Do you think it referred to it at the 10:09:34 11 time as a loan purchase facility? 10:09:37 12 A. I don't recall us putting together 10:09:39 13 anything in that period of time. 10:09:41 14 Q. I'm sure you didn't, but the question 10:09:42 15 is whether you were attempting to do so. 10:09:45 16 A. Not that I recall. 10:09:45 17 Q. So is it your testimony that during the 10:09:49 18 period leading up to Oakwood's bankruptcy CSFB was 10:09:53 19 not making any effort to put together some sort of 10:09:56 20 warehouse or loan purchase facility for Oakwood? 10:10:00 21 MR. OSNATO: Same objection. 10:10:02 22 You can answer. 10:10:05 23 A. During that period of time there was a 10:10:06 24 loan purchase facility in place. There -- I was 10:10:10 25 never asked to put together any type of warehouse,</p> <p style="text-align: right;">52</p>
<p>1 Flachra O'Driscoll 10:08:09 2 responsibility? 10:08:11 3 A. Ensuring that from the point of view of 10:08:12 4 the branch that the transaction was put together 10:08:17 5 correctly. 10:08:19 6 Q. All right. Now, had this cast of 10:08:21 7 characters changed -- or strike that. 10:08:23 8 Did this cast of characters change with 10:08:25 9 respect to the transaction or proposed transaction 10:08:31 10 that was referred to as the warehouse facility in 10:08:35 11 the weeks leading up to and shortly following 10:08:39 12 Oakwood's bankruptcy? 10:08:40 13 MR. OSNATO: Objection as to the form. 10:08:42 14 You can answer. 10:08:44 15 A. Now, what do you mean -- 10:08:46 16 Q. Was it the same people? 10:08:48 17 A. When you refer to the warehouse 10:08:51 18 facility are you referring to the loan purchase 10:08:53 19 facility? 10:08:54 20 Q. I'm talking about -- 10:08:56 21 You are aware, sir, that in the weeks 10:08:59 22 preceding up to the bankruptcy of Oakwood on 10:09:06 23 November 15th, 2002 CSFB was acting as financial 10:09:11 24 adviser to Oakwood? 10:09:13 25 MR. OSNATO: Objection as to the form.</p> <p style="text-align: right;">51</p>	<p>1 Flachra O'Driscoll 10:10:13 2 that I can recall. 10:10:14 3 Q. Or loan purchase facility? 10:10:16 4 A. Or a loan purchase facility. 10:10:17 5 Q. Were you asked to obtain a waiver from 10:10:19 6 CSFB New York branch of the provision in that 10:10:22 7 facility that created a right to suspend it upon 10:10:28 8 Oakwood's bankruptcy? 10:10:29 9 MR. OSNATO: Objection as to the form. 10:10:30 10 Asked by whom? 10:10:31 11 MR. CASTANARES: You may answer. 10:10:32 12 A. Yes. 10:10:33 13 Q. Who asked you to do that? 10:10:36 14 A. An Oakwood officer. Precisely whom, I 10:10:39 15 don't recall. 10:10:39 16 Q. And did you make any such efforts? 10:10:42 17 A. Yes. 10:10:43 18 Q. And at any time after the putting into 10:10:49 19 place of the facility of early 2001 that we have 10:10:51 20 been talking about, as distinguished from 10:10:56 21 obtaining a waiver of a provision in that 10:10:58 22 facility, was there any effort to put together a 10:11:02 23 new facility of that type? 10:11:04 24 MR. OSNATO: Objection as to the form. 10:11:06 25 Q. Including after Oakwood's bankruptcy.</p> <p style="text-align: right;">53</p>

<p>1 12:27:05 2 A. He was in the financial institutions 12:27:08 3 advisory group. 12:27:09 4 Q. All right. And just generally 12:27:12 5 speaking, what kind of services did that group 12:27:18 6 perform for GreenPoint? 12:27:21 7 A. I don't know. 12:27:23 8 Q. Okay. Who runs that group now? 12:27:29 9 A. It's run by two gentlemen, Eric Varvel 12:27:33 10 and Mark Granetz. 12:27:36 11 Q. And they're both here in New York? 12:27:39 12 A. I am not sure, actually. 12:27:41 13 Q. Okay. Do you recall that at some point 12:27:58 14 or another there was a proposition put to CRM 12:28:03 15 about a \$75 million reverse repurchase facility? 12:28:08 16 A. Yes. 12:28:08 17 Q. I believe in earlier testimony you 12:28:10 18 talked about a reverse repurchase facility as 12:28:12 19 being similar in some respect to a warehouse or 12:28:15 20 asset purchase facility, am I correct? 12:28:19 21 A. It might be or it might not be 12:28:21 22 depending on the circumstances. 12:28:23 23 Q. Okay. 12:28:23 24 A. In this particular instance that 12:28:25 25 reverse repurchase facility was actually pretty</p> <p style="text-align: right;">162</p>	<p>1 12:29:34 2 some shape or form as well. 12:29:36 3 Q. And did he say why they felt that way? 12:29:39 4 A. I don't recall enough about the 12:29:41 5 conversation to say. 12:29:43 6 Q. Based upon your knowledge of the 12:29:45 7 industry trends, et cetera, was there any -- did 12:29:48 8 you need him to tell you why they felt that way or 12:29:51 9 did you -- 12:29:51 10 A. No. 12:29:52 11 Q. Did you understand why they felt that 12:29:53 12 way? 12:29:53 13 A. Yes. 12:29:54 14 Q. What was it? 12:29:55 15 A. At that period of time, that was a 12:29:57 16 period of time in which Bank of America in 12:29:59 17 particular was, quote, unquote, making a big push 12:30:02 18 into the investment banking industry, into a 12:30:04 19 variety of different things, into straight 12:30:06 20 investment banking advisory activities, M&A, 12:30:10 21 corporate bond offerings like the one that they 12:30:12 22 did right around that time. But also mortgaged 12:30:18 23 securitizations and my piece of the business, if 12:30:19 24 you will. 12:30:20 25 And they were very aggressive at that</p> <p style="text-align: right;">164</p>
<p>1 12:28:29 2 dissimilar. 12:28:30 3 Q. "Pretty dissimilar"? 12:28:32 4 A. Pretty dissimilar. 12:28:33 5 Q. In what respects was it dissimilar? 12:28:36 6 Now, we're not talking -- 12:28:37 7 A. For one thing -- 12:28:37 8 Q. -- about 75 million -- 12:28:38 9 A. -- in truth, I think I'd need to see 12:28:41 10 the documents to refresh my recollection of 12:28:43 11 exactly what was in there. I know one of the 12:28:45 12 things it provided for was financing securities as 12:28:48 13 well as financing loans. 12:28:53 14 Q. Okay. And whose idea was it to -- 12:28:57 15 Who brought up this potential facility, 12:28:59 16 was it you, or was it Oakwood, or was it some 12:29:02 17 third party? 12:29:03 18 A. Oakwood on a couple of occasions, 12:29:06 19 specifically Doug Muir, made it clear to us that 12:29:13 20 their other banking relationships, in particular 12:29:16 21 Bank of America and First Union, who were -- had a 12:29:22 22 broader relationship with Oakwood and were also 12:29:26 23 providing direct credit to Oakwood, were putting 12:29:29 24 him under a good deal of pressure and saying that 12:29:32 25 Credit Suisse should also provide financing in</p> <p style="text-align: right;">163</p>	<p>1 12:30:22 2 point in time. And while I don't want to suggest 12:30:26 3 that they complied with the law, they skirted very 12:30:30 4 close to the fed rules about linking together the 12:30:35 5 provision of credit together with seeking other 12:30:37 6 banking services to come their way. 12:30:40 7 So they had made it very clear to not 12:30:42 8 just Oakwood, but I saw the same thing with 12:30:45 9 Conesco, I saw the same thing I think with 12:30:47 10 Clayton Homes as well, that they were putting 12:30:52 11 companies under a good deal of pressure to -- in 12:30:55 12 exchange for credit give them further assignments 12:30:58 13 and further opportunities to earn fees from either 12:31:01 14 underwriting, securities underwriting businesses, 12:31:03 15 or from investment banking advisory businesses. 12:31:06 16 Q. Okay. I may have misunderstood what 12:31:08 17 you said before. I hope you'll clarify this for 12:31:10 18 me. 12:31:11 19 I had understood that you told me that 12:31:12 20 B of A was pressuring Oakwood to get Credit Suisse 12:31:16 21 First Boston to lend money, did I misunderstand 12:31:19 22 you? 12:31:22 23 A. May I rephrase myself? 12:31:24 24 Q. Yeah. And let me phrase this a little 12:31:26 25 broader.</p> <p style="text-align: right;">165</p>

<p>1 Fiachra O'Driscoll</p> <p>12:31:26 2 A. Yeah.</p> <p>12:31:26 3 Q. Because -- and I think what I</p> <p>12:31:27 4 understood you to say in response was that B of A</p> <p>12:31:30 5 was trying to get investment banking business, so</p> <p>12:31:32 6 I'm confused by the two answers.</p> <p>12:31:34 7 A. No. And I'm not sure if I misspoke or</p> <p>12:31:39 8 whether alternatively it could easily be</p> <p>12:31:41 9 misunderstood.</p> <p>12:31:42 10 Doug's response to that pressure that</p> <p>12:31:44 11 was clearly being applied to him was to say, well,</p> <p>12:31:48 12 the counter to that is that Credit Suisse has to</p> <p>12:31:55 13 step up. At which point it's harder for Bank of</p> <p>12:31:58 14 America to be demanding a bigger share of the</p> <p>12:32:00 15 services if Credit Suisse is also seen as</p> <p>12:32:03 16 providing the same sort of facilities.</p> <p>12:32:09 17 Q. Okay. Now I'm probably even more</p> <p>12:32:11 18 confused.</p> <p>12:32:12 19 Are you telling me that you understood</p> <p>12:32:15 20 what Mr. Muir said to be that in order for CSFB to</p> <p>12:32:18 21 continue to get --</p> <p>12:32:19 22 THE WITNESS: I hate to interrupt, but</p> <p>12:32:21 23 weren't we going to take a pit stop at 12:30?</p> <p>12:32:25 24 MR. OSNATO: We are going to break for</p> <p>12:32:26 25 lunch. Why don't we finish this line of</p> <p style="text-align: right;">166</p>	<p>1 Fiachra O'Driscoll</p> <p>12:33:02 2 customers, generally speaking at that point in</p> <p>12:33:04 3 time is -- back in the days when we were a pure</p> <p>12:33:08 4 commercial bank we simply extended credit to you.</p> <p>12:33:12 5 Now -- and I'm not suggesting that they</p> <p>12:33:15 6 didn't stay within the law. But they were making</p> <p>12:33:17 7 it very clear to customers that their continued</p> <p>12:33:22 8 provision of credit in whatever shape or form it</p> <p>12:33:26 9 was provided was going to be contingent on getting</p> <p>12:33:30 10 a bigger share of the assignments, both advisory</p> <p>12:33:36 11 assignments and also securities underwriting</p> <p>12:33:40 12 business that that company had to offer.</p> <p>12:33:43 13 Q. Okay. So now I think perhaps I</p> <p>12:33:45 14 understand. Let me see if I've got it.</p> <p>12:33:47 15 And so Muir's reaction was that if CSFB</p> <p>12:33:50 16 wants to keep B of A from hovering in on its</p> <p>12:33:54 17 investment banking service it's got to lend some</p> <p>12:33:56 18 money?</p> <p>12:33:57 19 MR. OSNATO: Objection as to the form.</p> <p>12:33:58 20 I'm not sure that accurately</p> <p>12:33:59 21 characterizes his testimony.</p> <p>12:34:01 22 But you can tell us if that's right.</p> <p>12:34:03 23 A. For clarity, at that point in time we</p> <p>12:34:05 24 weren't providing what in the industry would be</p> <p>12:34:08 25 regarded as being investment banking services.</p> <p style="text-align: right;">168</p>
<p>1 Fiachra O'Driscoll</p> <p>12:32:27 2 questioning.</p> <p>12:32:28 3 THE WITNESS: And then we'll take a</p> <p>12:32:30 4 break?</p> <p>12:32:31 5 MR. OSNATO: If that's okay. And then</p> <p>12:32:31 6 it is -- we are at about the three hour mark,</p> <p>12:32:34 7 so...</p> <p>12:32:35 8 MR. CASTANARES: Now that the question</p> <p>12:32:36 9 stands where it is interrupted, I don't care</p> <p>12:32:38 10 whether we do it before lunch or after.</p> <p>12:32:40 11 MR. OSNATO: Are you sure?</p> <p>12:32:41 12 MR. CASTANARES: So if you want to</p> <p>12:32:42 13 break, that's fine with me.</p> <p>12:32:43 14 THE WITNESS: If I may, can I clarify</p> <p>12:32:44 15 the point?</p> <p>12:32:45 16 MR. OSNATO: Let's leave a clean record</p> <p>12:32:46 17 and then pick up after lunch.</p> <p>12:32:49 18 MR. CASTANARES: Fine.</p> <p>12:32:52 19 MR. OSNATO: Do you need the question</p> <p>12:32:54 20 read back? I mean, are you clear what you're</p> <p>12:32:55 21 answering?</p> <p>12:32:56 22 THE WITNESS: Yeah, I'm clear as to the</p> <p>12:32:57 23 question.</p> <p>12:32:58 24 MR. CASTANARES: Okay.</p> <p>12:33:00 25 A. Bank of America's approach to</p> <p style="text-align: right;">167</p>	<p>1 Fiachra O'Driscoll</p> <p>12:34:10 2 which would typically be seen as -- the euphemism</p> <p>12:34:12 3 for investment banking advisory services. What we</p> <p>12:34:16 4 were providing, of course, was securities</p> <p>12:34:18 5 underwriting services.</p> <p>12:34:20 6 And what Doug made it fairly clear was</p> <p>12:34:23 7 that he was going to have to give larger</p> <p>12:34:25 8 assignments and more, perhaps, lead assignments,</p> <p>12:34:29 9 and perhaps sole assignments to Bank of America if</p> <p>12:34:34 10 it was not possible for him to counter argue</p> <p>12:34:37 11 to Bank of America that, in fact, Credit Suisse</p> <p>12:34:41 12 First Boston was also committing credit on a</p> <p>12:34:44 13 comparable basis.</p> <p>12:34:45 14 Q. All right. And that's what gave rise</p> <p>12:34:47 15 to this requested \$75 million reverse repurchase</p> <p>12:34:51 16 facility?</p> <p>12:34:54 17 A. I think that that is -- that is the</p> <p>12:34:56 18 assumption that I drew at the time.</p> <p>12:34:58 19 MR. CASTANARES: Okay. Great. This is</p> <p>12:34:59 20 a good place to break for lunch.</p> <p>12:35:01 21 MR. OSNATO: It is good?</p> <p>12:35:02 22 Thank you.</p> <p>12:35:04 23 THE VIDEOGRAPHER: Okay. We'll go off</p> <p>12:35:06 24 the record at 12:35, tape 2.</p> <p>12:35:11 25 (Luncheon recess: 12:35 p.m.)</p> <p style="text-align: right;">169</p>

<p>1 Fiachra O'Driscoll</p> <p>13:32:54 2 sale under the repurchase. But because it's not</p> <p>13:32:58 3 an optional repurchase, because it's a compulsory</p> <p>13:33:02 4 repurchase the accounting profession has always</p> <p>13:33:05 5 viewed these things as being financing from an</p> <p>13:33:07 6 accounting point of view, without regard to the</p> <p>13:33:09 7 legal form in which these things are taken.</p> <p>13:33:11 8 And if you go back to -- you know,</p> <p>13:33:12 9 historically these things were typically -- and if</p> <p>13:33:12 10 you look at the core of the market for this kind</p> <p>13:33:14 11 of stuff it's mostly treasuries and other highly</p> <p>13:33:18 12 liquid securities. But probably over the last</p> <p>13:33:20 13 decade or so there's been a tendency to use these</p> <p>13:33:23 14 kind of facilities for raw loans, particularly</p> <p>13:33:27 15 mortgage loans and things of that sort as well.</p> <p>13:33:29 16 And that would have been the kind of thing that</p> <p>13:33:31 17 was contemplated here.</p> <p>13:33:32 18 And again, from a structure point of</p> <p>13:33:34 19 view it's one of these things that -- particularly</p> <p>13:33:36 20 with regard to the financing of loans that are</p> <p>13:33:40 21 being aggregated for securitization, it's kind of</p> <p>13:33:44 22 come in and out of fashion. I'd have to say that</p> <p>13:33:46 23 it was somewhat in vogue as a style. These vogues</p> <p>13:33:50 24 are ones selected by the lawyers, rather than</p> <p>13:33:53 25 anybody else, but it was somewhat in vogue during</p> <p>174</p>	<p>1 Fiachra O'Driscoll</p> <p>13:34:48 2 A. Yes.</p> <p>13:34:49 3 Q. And what benefit would Oakwood derive</p> <p>13:34:51 4 from this transaction?</p> <p>13:34:52 5 A. Because it would get cash from the</p> <p>13:34:55 6 arrangement in much the same way as it would</p> <p>13:34:58 7 through a straightforward loan arrangement.</p> <p>13:35:01 8 Q. And how would CSFB be compensated in</p> <p>13:35:04 9 such a transaction?</p> <p>13:35:05 10 A. It would earn the difference between</p> <p>13:35:07 11 the price at which it purchased the security and</p> <p>13:35:10 12 the price at which it sold back the security. And</p> <p>13:35:13 13 usually that was calculated such as to be a</p> <p>13:35:16 14 spread, a spread over some form of bank price,</p> <p>13:35:22 15 usually LIBOR or something of that sort. So in</p> <p>13:35:25 16 essence you're earning -- in the difference</p> <p>13:35:28 17 between the two prices you're earning an interest</p> <p>13:35:31 18 rate.</p> <p>13:35:32 19 Q. Right. Okay. Thank you.</p> <p>13:35:32 20 Now, were you the person at CSFB who</p> <p>13:35:35 21 carried this proposal within the company</p> <p>13:35:37 22 primarily?</p> <p>13:35:38 23 A. What do you mean by "carried"?</p> <p>13:35:41 24 Q. Well, I mean somebody submitted</p> <p>13:35:43 25 presumably --</p> <p>176</p>
<p>1 Fiachra O'Driscoll</p> <p>13:33:56 2 that period of time.</p> <p>13:33:57 3 And these days something more like the</p> <p>13:33:59 4 kind of mechanisms that were put in place for the</p> <p>13:34:02 5 Oakwood loan purchase facility is probably more</p> <p>13:34:03 6 typical than what's there now.</p> <p>13:34:05 7 Q. Okay. And you may have answered this</p> <p>13:34:07 8 question in the course of the answer you've just</p> <p>13:34:08 9 given, but I'm not -- I just want to make certain</p> <p>13:34:10 10 of it.</p> <p>13:34:11 11 Were the securities which were to be</p> <p>13:34:13 12 the subject of the -- or strike that.</p> <p>13:34:17 13 Well, let's call it securities.</p> <p>13:34:19 14 Were the securities or loans which were</p> <p>13:34:21 15 to be the subject of this particular facility the</p> <p>13:34:23 16 mortgages, as you referred to them, or were they</p> <p>13:34:26 17 REMIC securities held by Oakwood?</p> <p>13:34:29 18 A. They were definitely REMIC securities</p> <p>13:34:32 19 held by Oakwood, for sure. As to the other, I</p> <p>13:34:34 20 don't recall.</p> <p>13:34:35 21 Q. Okay. And just to put names to the</p> <p>13:34:38 22 structure you've just described, Oakwood would</p> <p>13:34:41 23 sell a security to CSFB and at the same time</p> <p>13:34:44 24 promise to buy it back at a specified price at a</p> <p>13:34:48 25 later date?</p> <p>175</p>	<p>1 Fiachra O'Driscoll</p> <p>13:35:44 2 A. Yeah.</p> <p>13:35:44 3 Q. -- some sort of proposal to CRM on this</p> <p>13:35:47 4 transaction. Somebody may have -- if somebody at</p> <p>13:35:48 5 CRM or else the New York branch wanted to know</p> <p>13:35:51 6 about it, know about Oakwood, whatever, they'd</p> <p>13:35:53 7 probably turn to someone, was that person you?</p> <p>13:35:58 8 A. Well, can I separate those two things</p> <p>13:36:00 9 into one --</p> <p>13:36:01 10 Q. Definitely. Uh-huh.</p> <p>13:36:02 11 A. -- one part?</p> <p>13:36:03 12 Q. Tell me what your role was.</p> <p>13:36:04 13 A. The answer for the first part was, you,</p> <p>13:36:06 14 I was the one, if I recall, responsible for</p> <p>13:36:08 15 submitting that thing to credit, either directly</p> <p>13:36:10 16 or someone at my instruction. As for the second</p> <p>13:36:12 17 part, it wouldn't necessarily be me.</p> <p>13:36:16 18 Q. Okay. Do you recall whether anybody</p> <p>13:36:17 19 from CRM inquired of you in any way regarding this</p> <p>13:36:23 20 proposed transaction?</p> <p>13:36:28 21 A. I do not recall a specific instance.</p> <p>13:36:32 22 Q. Do you recall furnishing any</p> <p>13:36:34 23 information to CRM about Oakwood, or its</p> <p>13:36:38 24 transactions, or business?</p> <p>13:36:41 25 A. I don't recall it. Again, I don't</p> <p>177</p>

1 Fiachra O'Driscoll
 13:40:31 2 collegial consultation. Which was as a practical
 13:40:35 3 matter, he would normally, almost invariably
 13:40:38 4 consult with his superiors before making a credit
 13:40:40 5 decision.
 13:40:40 6 Q. All right. Let me -- maybe I've asked
 13:40:41 7 this question inartfully. As a matter of fact,
 13:40:43 8 I'm sure I have. So let me try it again.
 13:40:45 9 Did this transaction need any form of
 13:40:47 10 approval other than credit risk management
 13:40:51 11 approval in order for it to be --
 13:40:52 12 A. Yeah.
 13:40:52 13 Q. -- to move forward?
 13:40:54 14 A. Typically I would need to get my
 13:40:56 15 supervisor's approval for the transaction before
 13:40:58 16 it would appear. And depending on the specific
 13:41:00 17 entity that was actually going to provide the
 13:41:02 18 finance, I might also need to get approval from
 13:41:06 19 the head of that business unit.
 13:41:08 20 You -- if you'll forgive me, one of the
 13:41:10 21 earlier questions you asked, the reason I was a
 13:41:12 22 little confused was you said the New York branch
 13:41:14 23 with respect to the reverse repo. And technically
 13:41:18 24 it wouldn't have been the New York branch.
 13:41:19 25 Because the New York branch had a certain kind of
 182

1 Fiachra O'Driscoll
 13:41:23 2 financings that it would do and could do, whereas
 13:41:25 3 a reverse repo would have been something that
 13:41:28 4 was done out of the broker-dealer, out of
 13:41:31 5 Credit Suisse First Boston Corporation.
 13:41:32 6 Q. Okay.
 13:41:32 7 A. So I would have had to potentially go
 13:41:34 8 to not just my supervisor, but also to somebody
 13:41:37 9 within the business unit who handled those things
 13:41:40 10 on a day to day to get their approval as well.
 13:41:43 11 Q. Who was your supervisor at that time?
 13:41:45 12 A. What date was that?
 13:41:45 13 That was 1999?
 13:41:46 14 Q. So it's late '99, early 2000.
 13:41:48 15 A. It was a gentleman by the name of
 13:41:50 16 Phil Weingard.
 13:41:54 17 Q. Phil Weingard?
 13:41:54 18 A. Gord, g-o-r-d.
 13:41:54 19 Q. Oh, gord. Okay.
 13:41:54 20 And did that change before Oakwood's
 13:41:55 21 bankruptcy, the identity of your supervisor?
 13:42:00 22 A. Yes.
 13:42:00 23 Q. Who -- just tell me what happened in
 13:42:01 24 that regard.
 13:42:03 25 A. He left to go to Deutsche Bank in 2000.
 183

1 Fiachra O'Driscoll
 13:42:05 2 And from that date till the date of the bankruptcy
 13:42:08 3 a guy called Joe Donovan was my supervisor.
 13:42:12 4 Q. All right. Do you know whether
 13:42:13 5 Mr. Weingard or Mr. Donovan ever interacted
 13:42:18 6 directly or had any communication with any Oakwood
 13:42:20 7 people?
 13:42:22 8 A. I don't recall.
 13:42:29 9 Q. Now, in terms of economic risks --
 13:42:30 10 which I'm trying to separate that out from any
 13:42:33 11 legal questions involved -- what is the difference
 13:42:38 12 on the Credit Suisse side between reverse
 13:42:41 13 repurchase and the asset purchase facility that
 13:42:45 14 was done a year later?
 13:42:48 15 MR. OSNATO: I'm going to object to the
 13:42:49 16 form of the question.
 13:42:58 17 A. It would depend on the circumstances.
 13:43:02 18 Q. Were there different economic risk
 13:43:04 19 characteristics between the -- I mean, aside from
 13:43:08 20 the size of the line --
 13:43:09 21 A. Uh-huh.
 13:43:09 22 Q. -- were there different economic risk
 13:43:13 23 characteristics from CSFB's perspective in the
 13:43:16 24 \$75 million reverse repurchase proposal and the
 13:43:20 25 proposal a year later that resulted in the asset
 184

1 Fiachra O'Driscoll
 13:43:23 2 purchase line?
 13:43:24 3 A. There would have been, yes.
 13:43:25 4 Q. And what were they?
 13:43:27 5 A. The reverse repo line was intended, if
 13:43:29 6 I recall -- and I don't have the documents in
 13:43:32 7 front of me so I don't -- you know, you'll have to
 13:43:34 8 forgive me. If you refresh my recollection, we'll
 13:43:37 9 put the documents in front of me, it may be
 13:43:39 10 somewhat different.
 13:43:40 11 But the reverse repo line had a fairly
 13:43:42 12 significant element of loans -- sorry, of
 13:43:44 13 securities within it, maybe the whole lot, as a
 13:43:47 14 way of financing those loans. It was also a much
 13:43:50 15 shorter term. Typically these things were not
 13:43:52 16 three-year committed lines. Typically these
 13:43:55 17 things were at three month, or six month, or some
 13:43:57 18 shorter period of time.
 13:43:59 19 I don't recall what the period of time
 13:44:03 20 was that the commitment was for this reverse repo,
 13:44:05 21 but it would have been very short. So both the
 13:44:08 22 assets were different and the maturity of the
 13:44:08 23 exposure was very different.
 13:44:09 24 Q. Would the shorter maturity of the
 13:44:11 25 exposure have tended to increase or decrease the
 185

<p>1 13:44:15 2 risk characteristics of the line from the 13:44:18 3 perspective of CSFB? 13:44:20 4 A. Decrease. 13:44:22 5 Q. And would the asset mix have tended to 13:44:25 6 increase or decrease that exposure? 13:44:27 7 A. As opposed to outright loans? 13:44:29 8 Q. As opposed -- I'm trying to contrast 13:44:33 9 the CSFB risk in the proposed reverse repo 13:44:40 10 proposal with the risk in the asset purchase 13:44:48 11 proposal, which was adopted approximately a year 13:44:50 12 later. And I believe you told me that the one 13:44:54 13 aspect was the difference in maturity and the 13:44:56 14 other had to do with the securities themselves. 13:44:58 15 So I'm asking you if the difference in 13:45:00 16 the securities themselves was greater or presented 13:45:03 17 greater risks to CSFB in one transaction than the 13:45:07 18 other or lesser ones? 13:45:09 19 A. No. Because they weren't 13:45:10 20 contemporaneous in time, I didn't have occasion to 13:45:12 21 make such comparison at that time. And to be 13:45:15 22 honest, I'd need to go back and look at the nature 13:45:17 23 of the instruments in a good deal, more detail now 13:45:19 24 to make an honest assessment. 13:45:22 25 Q. Do you have any knowledge of why it was</p> <p style="text-align: right;">186</p>	<p>1 13:46:45 2 or not approved. 13:46:46 3 Q. Did you ever receive a copy -- 13:46:48 4 Did you ever see a copy of the report 13:46:48 5 that Xanthos wrote in January of 2008 turning this 13:46:51 6 down? 13:46:52 7 A. No. 13:46:53 8 MR. OSNATO: Objection to the form. 13:46:53 9 Let me -- please, before you answer, 13:46:54 10 let me get my objection in. 13:46:57 11 I'm going to -- 13:46:57 12 THE WITNESS: Sorry. 13:46:57 13 MR. OSNATO: -- object to the form of 13:46:57 14 the question. 13:47:00 15 You can answer. 13:47:01 16 Do you want the question read back? 13:47:02 17 THE WITNESS: Yeah. Well, actually let 13:47:03 18 me -- 13:47:03 19 MR. OSNATO: Can you read back the 13:47:04 20 question, please? 13:47:05 21 THE WITNESS: Let me rephrase my 13:47:06 22 answer. 13:47:07 23 MR. OSNATO: Well, just listen to the 13:47:09 24 original question and then provide an answer. 13:47:12 25 THE WITNESS: Let me rephrase my -- if</p> <p style="text-align: right;">188</p>
<p>1 13:45:23 2 that CRM turned one down and approved the other? 13:45:27 3 MR. OSNATO: Objection to the form. 13:45:28 4 A. No. 13:45:29 5 Q. Okay. Did you have any knowledge of 13:45:32 6 why CRM turned the first one down? 13:45:39 7 A. I was never actually informed that they 13:45:42 8 had turned it down. 13:45:48 9 Q. So as far as you know, it was still an 13:45:49 10 open proposal a year later when the asset purchase 13:45:53 11 facility was being discussed? 13:45:55 12 A. It hadn't been discussed at that point. 13:45:58 13 What frequently happened was that -- 13:46:01 14 was one of three things. Either a credit 13:46:05 15 situation would be approved, a credit situation 13:46:08 16 would be declined, or very frequently a credit 13:46:15 17 situation would have been left open. 13:46:18 18 Particularly -- and I don't want to cast 13:46:21 19 aspersions towards my colleagues here -- 13:46:24 20 Tom Irwin, though, is one of the people who -- and 13:46:28 21 again, I don't want to, you know, draw comments on 13:46:31 22 somebody's professional capabilities, and so on -- 13:46:34 23 would very often leave something open. So he 13:46:37 24 would sometimes -- he would sometimes never quite 13:46:42 25 tell one whether the thing was actually approved</p> <p style="text-align: right;">187</p>	<p>1 13:47:12 2 I may, rephrase my answer. 13:47:14 3 A. In the first place it wouldn't have 13:47:16 4 been James place to turn a facility down in 13:47:19 5 isolation. He didn't have any authority to 13:47:20 6 approve or disapprove credit that I'm aware. In the 13:47:23 7 second place, actually I didn't know there was 13:47:25 8 such a report. 13:47:27 9 Q. To this moment, when I asked you this 13:47:29 10 question, you didn't know it? 13:47:31 11 THE WITNESS: Can I answer that? 13:47:32 12 MR. OSNATO: You can absolutely answer 13:47:33 13 the question. 13:47:34 14 I, again, am going to object to the 13:47:38 15 lack of foundation in the question. 13:47:39 16 But you can answer the question. 13:47:41 17 A. I was shown a piece of paper by our 13:47:43 18 counsel yesterday to that effect, that was the 13:47:47 19 first I'd ever seen or heard of it. 13:47:50 20 Q. Okay. Now, there was another reverse 13:47:52 21 repurchase facility proposed just a few months 13:47:54 22 later, wasn't there, in the amount of \$50 million? 13:47:58 23 A. I don't recall. 13:47:59 24 MR. CASTANARES: Let me see if I can 13:48:00 25 help refresh your memory.</p> <p style="text-align: right;">189</p>

1 Fiachra O'Driscoll
 13:48:01 2 I'll ask the reporter to mark
 13:48:03 3 CSFB 512903 as 53.
 13:48:07 4 (CSFB Exhibit 53, One-page Memorandum,
 13:48:07 5 bearing Bates stamp No. CSFB-00512903, marked
 13:48:07 6 for identification, as of this date.)
 13:48:20 7 THE WITNESS: Uh-huh.
 13:48:34 8 Q. Does this document help refresh your
 13:48:36 9 memory as to whether there was a proposal for a
 13:48:38 10 \$50 million reverse repurchase facility in
 13:48:41 11 approximately March of 2000?
 13:48:42 12 A. Actually, no.
 13:48:43 13 No. I, there was never a second
 13:48:45 14 proposal. I don't think that there was ever
 13:48:47 15 anything that -- to the best of my knowledge,
 13:48:50 16 there was only ever one proposal for a reverse
 13:48:54 17 repo. I don't recall its exact dollar amount at
 13:48:57 18 the time. I thought it was a \$75 million
 13:48:59 19 proposal. There may have been revised term
 13:49:02 20 sheets. It wasn't unusual actually to have
 13:49:04 21 revisions of term sheets of that sort during that
 13:49:06 22 period of time. So I don't think that there was
 13:49:09 23 ever multiple proposals, certainly from my
 13:49:11 24 perspective.
 13:49:12 25 Q. So if it was all one proposal you were

190

1 Fiachra O'Driscoll
 13:49:14 2 informed on approximately March 21, 2000 that it
 13:49:16 3 was turned down, right?
 13:49:18 4 A. No.
 13:49:19 5 Q. So this, the statement here that Irwin
 13:49:21 6 and Xanthos informed you of, this decision is
 13:49:24 7 incorrect?
 13:49:24 8 A. It's incorrect.
 13:49:25 9 Q. They never did tell you that?
 13:49:27 10 A. Nope.
 13:49:27 11 Q. Okay.
 13:49:27 12 A. The first I heard about this was
 13:49:28 13 yesterday.
 13:49:30 14 Q. So as far as you know, that reverse
 13:49:32 15 repo facility was still under consideration as of
 13:49:35 16 the time of Oakwood's bankruptcy in 2002?
 13:49:39 17 A. There hadn't been significant
 13:49:41 18 discussions about it and it would -- those
 13:49:45 19 discussions were from my perspective superseded by
 13:49:49 20 the later loan purchase facility discussions.
 13:49:51 21 Q. A year later?
 13:49:52 22 A. Yeah. And it wasn't unusual for
 13:49:54 23 discussions to change in their form. Because more
 13:49:57 24 typically, as I said, rather than -- sometimes
 13:50:01 25 you'd get an outright approval. Very occasionally

191

1 Fiachra O'Driscoll
 13:50:03 2 you'd get an outright turnaround. Much more often
 13:50:06 3 it was the case that their answer was, well, can
 13:50:09 4 you think about whether or not you, you know, can
 13:50:12 5 approach this thing differently?
 13:50:15 6 So term sheets would have been revised,
 13:50:17 7 term sheets would have been transformed in their
 13:50:19 8 nature, and you would see if there was a meeting
 13:50:21 9 of the minds.
 13:50:22 10 Q. Okay. Now, yesterday for the first
 13:50:23 11 time you saw Xanthos's January 2000
 13:50:28 12 recommendation; is that correct?
 13:50:30 13 A. Yes.
 13:50:31 14 Q. Is that the type of document, speaking
 13:50:33 15 as of that time, January 2000, that would have
 13:50:36 16 evidenced a complete turnaround of a proposal?
 13:50:41 17 A. I never saw evidence of a complete
 13:50:42 18 turnaround of a proposal.
 13:50:45 19 Q. Okay. Were you ever aware that CSFB
 13:50:47 20 had turned down any proposals ever?
 13:50:49 21 MR. OSNATO: Objection as to the form.
 13:50:51 22 Q. Whether they related to Oakwood or
 13:50:52 23 anything else?
 13:50:53 24 A. Yes, absolutely.
 13:50:54 25 Q. Okay. And were those communicated to

192

1 Fiachra O'Driscoll
 13:50:55 2 you orally always?
 13:50:57 3 A. They were always communicated orally.
 13:50:59 4 Q. Okay. Now, in the course of the next
 13:51:04 5 few months after the \$75 million proposal was
 13:51:09 6 being made to CRM, did anybody at Oakwood ask you
 13:51:13 7 what was going on with it?
 13:51:15 8 A. I'm sure they did, but I don't have any
 13:51:18 9 specific recollection.
 13:51:19 10 Q. Okay. Did it ever occur to you to
 13:51:21 11 wonder why you hadn't heard from CRM on this?
 13:51:25 12 A. There was never a situation where I
 13:51:26 13 hadn't heard from CRM.
 13:51:31 14 Q. Well, this was one, wasn't it?
 13:51:34 15 A. No.
 13:51:36 16 Q. And you hadn't heard from CRM on this
 13:51:39 17 proposal until yesterday, right?
 13:51:42 18 A. I hadn't seen a formal written
 13:51:44 19 submission from CRM, but I -- on the various
 13:51:48 20 things that we worked on, of which Oakwood was
 13:51:51 21 only a component, I probably talked to Tom Irwin
 13:51:54 22 every two or three days.
 13:51:56 23 Q. All right. Well, my question to you is
 13:51:58 24 did CRM ever communicate to you the turnaround of
 13:52:00 25 any proposal relating to Oakwood?

193

<p>1 16:34:57 2 A. Yes. 16:34:58 3 Q. — who its officers were, whether it 16:35:00 4 had bank accounts, whether it held meetings, 16:35:03 5 et cetera? 16:35:04 6 A. We can shortcut all those questions, 16:35:07 7 yes. 16:35:07 8 MR. CASTANARES: Okay. Thank you. 16:35:07 9 We've got five minutes on the 16:35:08 10 videotape, so why don't we take five. 16:35:12 11 MR. OSNATO: Okay. 16:35:12 12 THE VIDEOGRAPHER: We're off the record 16:35:13 13 at 4:35. This is the end of tape No. 3. 16:40:54 14 (Recess taken.) 16:42:11 15 THE VIDEOGRAPHER: Okay. We're back on 16:42:12 16 the record. It's 4:42. This is tape No. 4. 16:42:16 17 BY MR. CASTANARES: 16:42:17 18 Q. Do you think that the loan purchase 16:42:18 19 program that was instituted in early 2001 for 16:42:23 20 Oakwood represented an improvement for Oakwood 16:42:25 21 over its prior facility? 16:42:32 22 A. Can you expand on "improvement," 16:42:37 23 please. 16:42:37 24 Q. Was it cheaper money? 16:42:38 25 A. It was slightly more expensive money.</p> <p style="text-align: right;">314</p>	<p>1 16:43:41 2 were pushing hard to — in exchange for its — for 16:43:47 3 taking on credit risk, pushing hard to get 16:43:50 4 mandates for investment banking advisory services, 16:43:53 5 securities underwriting and so on. 16:43:55 6 And B of A had actually kind of gone 16:43:58 7 through a transition, not just with Oakwood, but 16:44:00 8 with quite a lot of other people as we got into 16:44:03 9 that period of time where they actually started 16:44:06 10 retrenching and they withdrew credit from a lot of 16:44:09 11 customers. 16:44:10 12 So one of the things that was — that 16:44:14 13 almost certainly the case was that the Bank of 16:44:16 14 America facility was one that Oakwood was being 16:44:19 15 put under at — Bank of America was making it 16:44:23 16 clear that they were looking to get out. 16:44:26 17 Furthermore, the Bank of America 16:44:28 18 facility was fairly short dated. I don't know 16:44:30 19 what the term of it was, but the term was 16:44:32 20 364 days, perhaps, that would have been fairly 16:44:35 21 typical. Whereas what this facility was, was a 16:44:38 22 three-year committed facility. 16:44:41 23 Q. Anything else? 16:44:42 24 A. So having the three-year term as 16:44:45 25 opposed to a 364-day term gave Oakwood a great</p> <p style="text-align: right;">316</p>
<p>1 16:42:41 2 Q. Okay. Was it more money? 16:42:43 3 A. It — I don't recall. I think — I 16:42:46 4 think it was about the same amount. 16:42:49 5 Q. Okay. Did it give more leeway to the 16:42:53 6 company in terms of collateral quality? 16:42:57 7 A. I don't know, because I actually don't 16:42:58 8 know the full terms of the predecessor facility. 16:43:01 9 Q. Can you think of any particular 16:43:03 10 advantage that this facility gave — strike that. 16:43:06 11 Did the earlier facility require 16:43:07 12 Oakwood to give the provider of the facility 16:43:11 13 20 percent of its stock? 16:43:14 14 A. Nope. 16:43:16 15 Q. Can you think of any terms of this 16:43:17 16 transaction which represented an improvement from 16:43:20 17 Oakwood's perspective from what it had before? 16:43:23 18 A. Absolutely. 16:43:24 19 Q. Please do. 16:43:24 20 A. There was two key things. The first 16:43:27 21 was that the Bank of America facility was a 16:43:30 22 short-term facility. And Bank of America — it 16:43:33 23 was a time period when B of A had kind of reversed 16:43:36 24 what we talked about earlier on. Because you may 16:43:39 25 recall that I mentioned that B of A in particular</p> <p style="text-align: right;">315</p>	<p>1 16:44:49 2 deal more certainty that its problem of how to 16:44:52 3 deal with its inventory of newly originated loans 16:44:56 4 had gone away. 16:44:57 5 Q. All right. Any other advantages you 16:44:58 6 can think of over — 16:45:00 7 A. That was an enormous advantage, in my 16:45:02 8 opinion. 16:45:03 9 Q. Can you think of any others, however 16:45:05 10 slight? 16:45:05 11 A. That was the salient advantage. 16:45:09 12 Q. Okay. Were you involved in the 16:45:15 13 negotiation of the various ceilings in the 16:45:20 14 facility on loan-to-value ratio, FICO scores, 16:45:23 15 et cetera? 16:45:24 16 A. Yes. 16:45:25 17 Q. Were you the primary person who 16:45:27 18 negotiated those ratios and terms on behalf of 16:45:30 19 CSFB? 16:45:30 20 A. There were several people involved in 16:45:32 21 it at different points of time. I would have been 16:45:34 22 the main point of contact with Oakwood. 16:45:36 23 Q. Okay. Was anybody else in direct 16:45:38 24 contact with Oakwood on those points? 16:45:40 25 A. I don't recall.</p> <p style="text-align: right;">317</p>

EXHIBIT E

**CREDIT
SUISSE** | **FIRST
BOSTON**

Memorandum

To: File

From: James Xanthos

Date: March 21, 2000

Subject: Update on Oakwood Homes

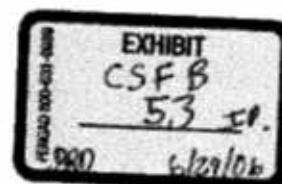
.....

On March 21, 2000, Bob O'Brien, Dan Miller, Thomas Irwin and James Xanthos discussed Oakwood Homes and the proposed \$50MM Repurchase facility.

CRM decided that it would decline this credit/financing proposal

Thomas Irwin & James Xanthos informed Fiachra O'Driscoll of this decision.

CONFIDENTIAL



CSFB-00512903

EXHIBIT F

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
OAKWOOD HOMES CORPORATION,)	Case No. 02-13396 (PJW)
<i>et al.</i> ,)	
)	Jointly Administered
Debtors.)	
_____)	
)	
OHC LIQUIDATION TRUST,)	
)	
Plaintiff,)	
)	
vs.)	Adv. Proc. No. 04-57060 (PJW)
)	
CREDIT SUISSE FIRST BOSTON, <i>et al.</i> ,)	
)	
Defendants.)	

SUPPLEMENTAL REPORT OF ALAN C. SHAPIRO, PH.D.

August 28, 2007

CONFIDENTIAL

1. Introduction

In my report dated April 30, 2007, I opine that Credit Suisse First Boston did not behave in a reasonable or reasonably prudent manner with respect to services it provided to Oakwood Homes Corporation (“Oakwood”). In forming this opinion, I was asked by counsel to assume that Oakwood was insolvent in September 2001 – more than a year prior to when the company filed for bankruptcy on November 15, 2002. This assumption is based on the expert report of Dr. Michael Tennenbaum.

I have since been informed by counsel that a recent decision, *VFB LLC v. Campbell Soup Company*, 482 F.3d 624, places emphasis on the use of market data in reaching economic conclusions. Based on this additional information, I have analyzed market data to test the validity of that assumption.

This supplemental report summarizes this analysis. As I explain, market data indicate that Oakwood was economically insolvent by June 30, 2000.

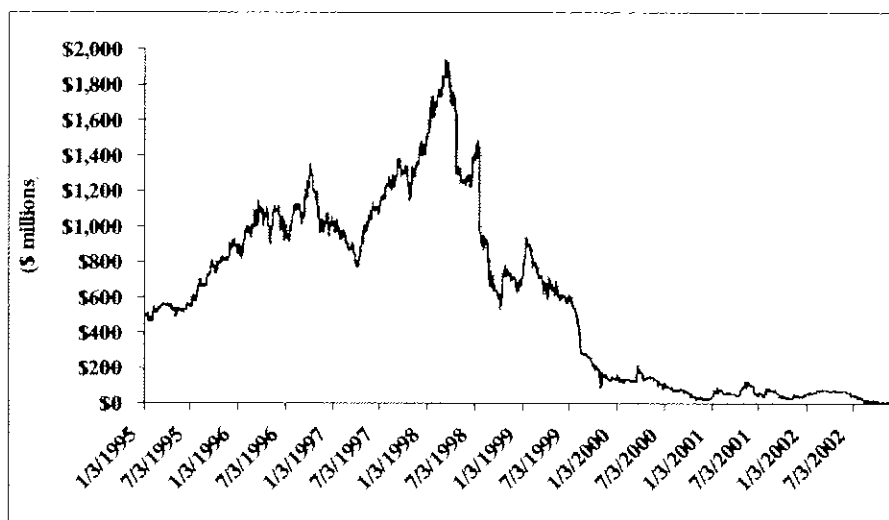
2. Market Data Demonstrate Oakwood Was Insolvent On June 30, 2000

A company is balance sheet insolvent, from an economic perspective, if the market value of its assets is less than the value of its outstanding debt. I assessed Oakwood’s economic solvency by calculating the market value of its equity and its debt (the sum of which equals the market value of its assets),¹ and comparing this figure to the company’s debt. As I show below, Oakwood was insolvent as of June 30, 2000.

Market Value of Equity

The market value of a company’s equity is obtained by multiplying its share price by the number of shares outstanding. Oakwood’s share price began a downward spiral in March 1998, declining by more than 72 percent from late March 1998 to early October 1998. After a brief recovery in late 1998, the share-price decline resumed in 1999. By September 1999, Oakwood’s shares were trading below \$5.00 and had lost nearly 90 percent of their March 1998 value. The share price fell to \$1.50 by September 2000, down 96 percent from its March 1998 value. The resulting decline in the market value of its equity is shown in Figure 1.

¹ This approach relies on the fact that the market value of assets equals the market value of claims against those assets (that is why it is called a balance sheet). These claims come in the form of debt and equity, with equity as the residual claimant receiving the value remaining (if any) after paying off all debt claims.

Figure 1: Steep Decline in Market Value of Equity Beginning in 1998

The steep decline in Oakwood's market value of equity is indicative not just of recent dismal operating performance, but of diminished expectations regarding the company's future performance, as a company's equity value represents the present value of all expected future corporate earnings. Beginning in March 1998, the market's expectations of Oakwood's future earnings declined markedly and remained low until the company's bankruptcy filing. While the market value of equity is still positive, this is just a reflection of its option value, not that it provides any cushion for the claims of bondholders.

Market Value of Debt

I then calculated the market value of Oakwood's reported debt. Exhibit 1 provides a summary of Oakwood's outstanding debt for each year from 1996 to 2002, as per its balance sheet.² To derive the market value of reported debt, I first calculated the ratio of the market price of Oakwood's 10-year, 8.125 percent coupon, \$175 million, senior note issued March 1, 1999, to its face value of \$175 million (please see Exhibit 2 for details regarding Oakwood's note issues).³ This ratio fell from 52 percent on March 31, 2000, to 30 percent on December 31, 2000, and was approximately 40 percent for 2001 and early 2002. The deep discount at which the note traded indicates that creditors did not expect to be paid in full (and were thus willing to accept 50 cents, or less, on the dollar for the debt), meaning that they considered Oakwood to be insolvent.

² Data after June 30, 2002 were not available because Oakwood did not file a Form 10-Q with the Securities and Exchange Commission for the third quarter of 2002.

³ I obtained the bond price data from JP Morgan's research website (www.morganmarkets.com). Data prior to January 2000 were not available.

As the 8.125 percent coupon senior note was the only Oakwood note or bond for which pricing was available, I used the discount on this note as a proxy for the discount on both of the notes reported on Oakwood's balance sheet.⁴ The 8.125 percent coupon bond represented between 35 percent and 49 percent of Oakwood's reported liabilities in each year from 1999 to 2002. Oakwood's other note during this period was a similar senior note, also issued March 1, 1999, with a five-year maturity, a 7.875 percent coupon rate, and a face value of \$125 million. This note represented another 25 percent to 35 percent of the company's reported liabilities during those years.

I applied the price discount on the 8.125 percent coupon note to the face value of Oakwood's notes (\$300 million) to estimate the market value of the notes for each quarter from 2000 through the second quarter of 2002. I next added the face value of Oakwood's other debt, with no discount applied, to calculate the market value of debt. I then added the market value of debt to the market value of equity to calculate the market value of Oakwood's assets (Table 1).

**Table 1: Calculation of Market Value of Assets
(in thousands, except share price)**

	3/00	6/00	9/00	12/00	3/01	6/01	9/01	12/01	3/02	6/02
Market Value of Equity										
Shares Outstanding	47,125	47,125	47,125	47,125	47,694	9,529	9,531	9,532	9,530	9,530
Share Price	\$3.81	\$1.81	\$1.50	\$0.62	\$1.06	\$5.00	\$4.15	\$5.30	\$7.20	\$4.99
MV Equity	\$179,664	\$85,414	\$70,688	\$29,453	\$50,556	\$47,645	\$39,554	\$50,520	\$68,616	\$47,555
Market Value of Debt										
BV Long-Term Debt	\$389,948	\$391,739	\$395,429	\$452,368	\$356,637	\$378,633	\$370,620	\$323,107	\$363,912	\$339,214
Discount on Face Value of Notes	48%	64%	68%	70%	58%	62%	60%	60%	59%	42%
MV of Debt	\$245,948	\$199,739	\$191,429	\$242,368	\$182,637	\$192,633	\$190,620	\$143,107	\$186,912	\$213,214
Market Value of Assets	\$425,612	\$285,153	\$262,117	\$271,821	\$233,193	\$240,278	\$230,174	\$193,627	\$255,528	\$260,769

⁴ My insolvency date conclusions do not change even if it is assumed that the 7.875% coupon note was worth its face value during the period – the market value of Oakwood's assets was still less than the company's outstanding debt by June 30, 2001.

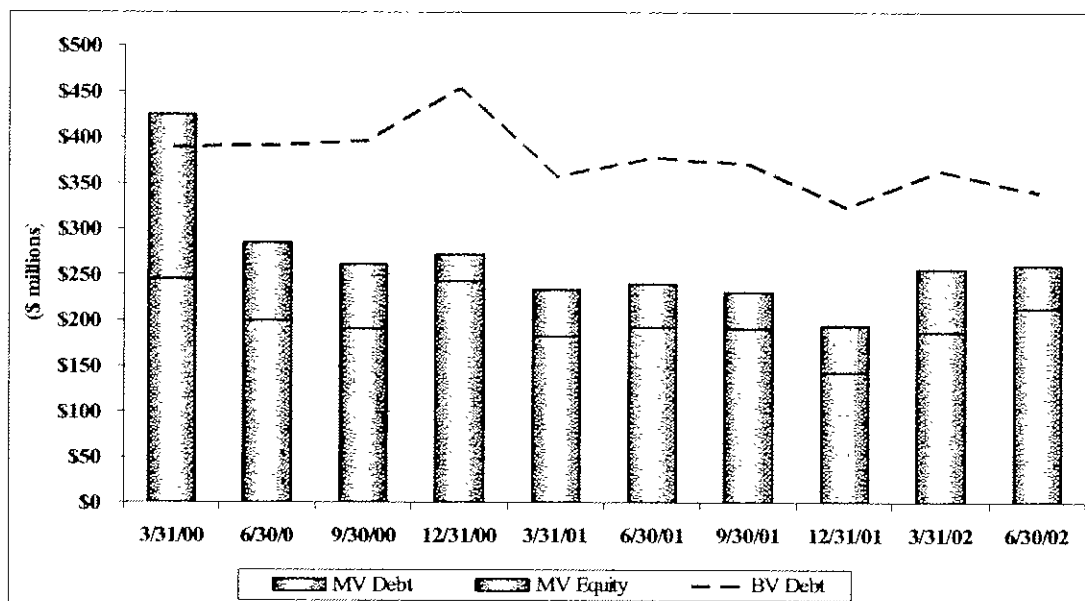
Comparing the Market Value of Assets to Outstanding Debt

I then compared the market value of assets first with the book value of reported debt. As shown in Table 2 and Figure 2, Oakwood was insolvent as of June 30, 2000. The market value of Oakwood's assets is less than the book value of the company's reported debt for each quarter from June 2000 through June 2002. The difference is never less than \$78 million. That is, for each quarter from June 2000 to June 2002, Oakwood's balance sheet debt exceeded the market value of its assets by at least \$78 million.

This analysis understates Oakwood's insolvency, as it does not include the Company's off-balance sheet liabilities, such as those associated with the guarantees on the principal and interest payments of \$275 million of subordinated B-2 REMIC securities (the B-2 guarantees are discussed in my original report).

Table 2: Market Value of Assets Less than Face Value of Debt (\$ 000)

	3/00	6/00	9/00	12/00	3/01	6/01	9/01	12/01	3/02	6/02
MV Equity	\$179,664	\$85,414	\$70,688	\$29,453	\$50,556	\$47,645	\$39,554	\$50,520	\$68,616	\$47,555
MV of Debt	\$245,948	\$199,739	\$191,429	\$242,368	\$182,637	\$192,633	\$190,620	\$143,107	\$186,912	\$213,214
MV Assets	\$425,612	\$285,153	\$262,117	\$271,821	\$233,193	\$240,278	\$230,174	\$193,627	\$255,528	\$260,769
BV Debt	\$389,948	\$391,739	\$395,429	\$452,368	\$356,637	\$378,633	\$370,620	\$323,107	\$363,912	\$339,214
MV Assets Less BV Debt	\$35,664	-\$106,586	-\$133,313	-\$180,547	-\$123,444	-\$138,355	-\$140,446	-\$129,480	-\$108,384	-\$78,445
Insolvency Conclusion	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Figure 2: Market Value of Assets Below Book Value of Debt by June 30, 2000

CSFB's Own Analysis Is Consistent with My Findings

CSFB also concluded that the market value of Oakwood's assets was less than the value of the debt owed by the company by June 2001. In a presentation dated June 26, 2001, CSFB calculated the market value of Oakwood's assets as \$358 million, compared with total debt outstanding of \$460 million.⁵ In a March 2002 presentation, CSFB also calculated the market value of Oakwood's assets (\$238.4 million) to be less than the company's outstanding debt (\$324.1 million).⁶ As such, CSFB's own internal analysis demonstrated that Oakwood was economically insolvent by no later than June 2001. CSFB's analysis also understates Oakwood's insolvency as it does not include liabilities associated with the B-2 guarantees.

⁵ CSFB 00052973.

⁶ CSFB 00033241.

Oakwood Solvency Analysis

Exhibit 1

Oakwood's Existing Debt per 10-K Filings

In Thousands USD

	1996	1997	1998	1999	2000	2001	2002
Short Term Notes	\$175,000	\$175,000	\$282,200	\$144,800	\$64,000	\$49,000	\$49,000
12.58% subordinated notes payable 1997 -2001	\$8,350	\$7,372	\$4,692	\$2,075			
8.65% Notes Due 2000	\$22,936	\$9,699	\$3,246	\$231			
10.5% subordinated notes payable 2001 to 2004	\$12,954	\$12,954	\$11,876	\$8,837			
Term Notes Due July 2000	\$25,740	\$18,334	\$11,076	\$12,615	\$3,560		
Capitalized Leases	\$4,916	\$3,835	\$3,270				
8 1/8% senior notes due March 2009				\$174,050	\$174,120	\$174,196	\$174,280
7 7/8% senior notes due March 2004				\$124,693	\$124,754	\$124,819	\$124,530
Industrial revenue bonds due in installments through 2011			\$5,492	\$7,099	\$6,700	\$6,200	\$5,565
Industrial revenue bonds due in installments through 2001	\$2,250	\$2,125	\$2,025	\$1,925	\$1,825		
Industrial revenue bonds due in installments through 1996	\$4,700						
Facilities Loans due in installments through 1996	\$8,000	\$4,000					
8% reset debentures due 2007	\$39,908	\$16,945	\$16,945	\$16,925	\$16,783	\$16,194	\$2,633
Other notes payable	\$2,945	\$2,351	\$2,542	\$3,474	\$2,187	\$1,711	\$2,159
ESOP Notes	\$1,680	\$1,200	\$720	\$240			
Total	\$309,379	\$253,815	\$344,084	\$496,964	\$393,929	\$372,120	\$358,167

Source: Oakwood 10-k filings

Oakwood Solvency Analysis

Exhibit 2

Details of Bonds Issued

8 1/8% senior notes due March 2009

Settlement Date	3/2/1999
Maturity Date	3/1/2009
Coupon	8.125%
Amount Issued (\$mil.)	\$175.0

7 7/8% senior notes due March 2004

Settlement Date	3/2/1999
Maturity Date	3/1/2004
Coupon	7.875%
Amount Issued (\$mil.)	\$125.0